

MINUTES

NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION ACT (NAGPRA)  
REVIEW COMMITTEE

SIXTEENTH MEETING: DECEMBER 10-12, 1998  
SANTA FE, NEW MEXICO

The sixteenth meeting of the Native American Graves Protection and Repatriation Review Committee was called to order by Ms. Tessie Naranjo at 8:30 a.m., Thursday, December 10th, 1998, at the Kiva Room, Hotel Santa Fe, Santa Fe, New Mexico. The following Review Committee members, National Park Service (NPS) staff, and others were in attendance:

Members of the Review Committee:

Ms. Tessie Naranjo, Chair  
Mr. James Bradley  
Mr. Lawrence Hart  
Ms. Vera Metcalf  
Mr. Armand Minthorn  
Mr. John O'Shea  
Mr. Martin E. Sullivan

National Park Service staff present:

Mr. Francis P. McManamon, Departmental Consulting Archaeologist, Washington, DC  
Mr. C. Timothy McKeown, NAGPRA Program Leader, Washington, DC  
Ms. Jennifer Schansberg, NAGPRA Consultant, Washington, DC  
Ms. Carla Mattix, Solicitor's Office, Department of the Interior, Washington, DC

The following were in attendance during some or all of the proceedings:

Ms. Rebekah Agen, Santa Fe, New Mexico  
Mr. Martin Aguilar, San Ildefonso Pueblo, Santa Fe, New Mexico  
Ms. Bridget Ambler, Colorado Historical Society/Colorado Comm. of Indian Affairs, Denver, Colorado  
Mr. Lisa Anderson, Seminole Nation of Oklahoma, Santa Fe, New Mexico  
Ms. Liz Anontow, Mohawk, Boulder, Colorado  
Mr. Kurt Anschuetz, Rio Grande Foundation, Santa Fe, New Mexico  
Mr. Roger Anyon, Smithsonian Institution, Tucson, Arizona  
Mr. Kerem Ar, Las Cruces, New Mexico  
Mr. Manuel Archuleta, Picuris Pueblo, Penasco, New Mexico  
Ms. Barbara F. Aripa, Colville Confederated Tribes, Nespelem, Washington  
Ms. Kristen Astor, Congresswoman Heather Wilson, Albuquerque, New Mexico  
Ms. Donna Augustine, Micmac, Rexton, New Brunswick, Canada  
Mr. Duane L. Aure, National Park Service, Pecos, New Mexico  
Ms. Jeannie Barbour, Chickasaw Nation, Ada, Oklahoma  
Mr. Dean Barlese, Pyramid Lake Paiute/Warm Springs, Nixon, Nevada  
Mr. Jake Barrow, National Park Service, Santa Fe, New Mexico  
Mr. Raymond Basquez, Pechanga Band of Luiseno Mission Indians, Temecula, California  
Mr. Timothy G. Baugh, Wichita, Albuquerque, New Mexico  
Mr. Alan Beaverhead, Confederated Salish and Kootenai Tribes, Ronan, Montana  
Mr. Chauncy Beaverhead, Confederated Salish and Kootenai Tribes, Ronan, Montana  
Ms. Glenna Begay, Navajo, Kayenta, Arizona  
Mr. Steven Begay, Navajo, Window Rock, Arizona  
Mr. Gary S. Bennally, Navajo Tribe, Arizona  
Mr. Leonard Bennally, Navajo Tribe, Big Mountain, Arizona  
Ms. Ellyn Bigrope, Mescalero Apache Tribe, Mescalero, New Mexico  
Ms. Elizabeth Blackowl, Pawnee Nation of Oklahoma, Pawnee, Oklahoma  
Ms. Cindy Bloom, Midwest SOARRING, Naperville, Illinois

Ms. Terry Bodnar, National Park Service, Aztec, New Mexico  
Mr. Jim Boll, National Park Service, Mountainair, New Mexico  
Ms. Caroline Brown, Denakkanaaga, Athabaskan Interior, Fairbanks, Alaska  
Mr. John Brown, Narragansett Indian Tribe, Wyoming, Rhode Island  
Mr. David M. Brugge, Albuquerque, New Mexico  
Mr. Rex Buck, Jr., Wahapum, Ephrata, Washington  
Ms. Nancy Burghs, National Park Service, Santa Fe, New Mexico  
Ms. Amanda Burt, Rudnick, Wolfe, Epstien, and Zeidman, Tracy's Landing, Maryland  
Ms. Wendy Bustard, Chaco Canyon, National Park Service, Nageezi, New Mexico  
Ms. Leslie Butler, student, Las Vegas, New Mexico  
Ms. Rosemary Caye, Confederated Salish and Kootenai Tribes, Elmo, Montana  
Ms. Kathleen Callister, US Army Dugway Proving Ground, Dugway, Utah  
Ms. Patricia "Trish" Capone, Peabody Museum, Harvard University, Cambridge, Massachusetts  
Ms. Donna Cassett, Paiute, Fallon, Nevada  
Ms. Colleen F. Cawafor, Colville Confederated Tribes, Nespelem, Washington  
Mr. Rodney Cawston, Colville Confederated Tribes, Nespelem, Washington  
Mr. Bryant Celestine, Alabama Coushatta Tribe, Livingston, Texas  
Mr. Walter Celestine, Alabama Coushatta Tribe, Livingston, Texas  
Mr. Ron Charlie, Acoma Pueblo, Acoma, New Mexico  
Mr. Dale L. Clark, Colville Confederated Tribes, Nespelem, Washington  
Ms. Julia Clifton, Museum of New Mexico, Santa Fe, New Mexico  
Mr. Terry Cole, Choctaw Nation, Durant, Oklahoma  
Mr. Kent Collier, Kickapoo Tribe of Oklahoma, McLoud, Oklahoma  
Ms. Cherrie A. Corey, Concord, Massachusetts  
Ms. Donna Cossette, Fallon Paiute-Shoshone Tribe, Fallon, Nevada  
Mr. Bruce Crespin, Bureau of Land Management, Native American Office, Santa Fe, New Mexico  
Mr. Robert Cry, Tohono O'odham, Topary, Arizona  
Mr. George Daingkau, Kiowa Tribe of Oklahoma, Fort Cobb, Oklahoma  
Mr. Leland Michael Darrow, Fort Sill Apache, Fort Cobb, Oklahoma  
Mr. Joe Day, Leech Lake Band of Chippewa, Bemidji, Minnesota  
Mr. Jeff Denny, National Park Service, Carlsbad, New Mexico  
Ms. Eula Doonkeen, Seminole Nation of Oklahoma, Oklahoma City, Oklahoma  
Ms. Brenda Dorr, Maxwell Museum, University of New Mexico, Albuquerque, New Mexico  
Ms. Katherine Dowdy, Ozark, Missouri  
Mr. Alan Downer, Navajo Nation, Window Rock, Arizona  
Ms. Patricia Duff, US Navy, San Francisco, California  
Mr. Michael L. Durglo, Confederated Salish & Kootenai Tribes, Pablo, Montana  
Mr. Maurice Eben, Pyramid Lake Paiute Tribe, Nixon, Nevada  
Mr. David D. Echo Hawk, Kaw Nation of Oklahoma, Kaw City, Oklahoma  
Mr. Roger Echo Hawk, Denver Art Museum, Denver, Colorado  
Mr. Robert Edgerton, US Army Environmental Center, Commerce City, Colorado  
C. Ellis, Reno, Nevada  
Mr. Alan D. Emarthle, Seminole Nation of Oklahoma, Seminole, Oklahoma  
Ms. Amy Espinoza, New Mexico State University student, Las Cruces, New Mexico  
Ms. Linda R. Fabbri, Office of the Chancellor, University of California at Berkeley, Berkeley, California  
Ms. Clare Farrell, Midwest SOARRING, Naperville, Illinois  
Ms. Gillian Flyn, National Museum of the American Indian, Smithsonian Institution, Washington, DC  
Ms. Dabney Ford, National Park Service, Chaco Culture, Nageezi, New Mexico  
Mr. Steven Fosberg, Bureau of Land Management, Santa Fe, New Mexico  
Mr. Lance Foster, National Park Service, Santa Fe, New Mexico  
Ms. Yvonne Francisco, Tohono O'odham Nation, Sells, Arizona  
Ms. Adeline Fredin, Colville Tribe, Nespelem, Washington

Ms. Cheryl A. Frost, Southern Ute, Ignacio, Colorado  
Ms. Dody Fugate, Museum of New Mexico, Santa Fe, New Mexico  
Mr. Glenn Fulfer, Salinas Pueblo Missions National Monument, Mountainair, New Mexico  
Ms. Reba Fuller, Central Sierra Me-Wuk Committee, Tuolumne, California  
Mr. Dennis M. Funmaker, Ho-Chunk Nation, Black River Falls, Wisconsin  
Mr. George Garvin, Ho-Chunk Nation, Black River Falls, Wisconsin  
Mr. Thomas Gates, Yurok Tribe, Eureka, California  
Ms. Julia Geffroy, Picuris Pueblo, Penasco, New Mexico  
Mr. Craig Gerlad, University of Alaska, College, Alaska  
Ms. Myra Giesen, Bureau of Reclamation, Lawrence, Kansas  
Ms. Pauline Girvin y Montoya, Mendocino County Intertribal Repatriation, Ukiah, California  
Mr. William Gollnick, Oneida Nation of Wisconsin, Oneida, Wisconsin  
Mr. Myron Gonzales, San Ildefonso, Santa Fe, New Mexico  
Mr. Robert Gough, Estate of Crazy Horse, Rosebud Sioux NAGPRA, Rosebud, South Dakota  
Ms. Martha Graham, American Museum of Natural History, New York, New York  
Mr. Paul Graham, Utah National Guard Cultural Resources, Draper, Utah  
Mr. Dell Greek, US Army Reserve Command, Fort McCoy, Wisconsin  
Mr. Orville Greendeer, Ho-Chunk Nation, Black River Falls, Wisconsin  
Mr. Glen S. Greene, Stratigraphic Services, Santa Fe, New Mexico  
Ms. Priscilla C. Grew, University of Nebraska at Lincoln, Lincoln, Nebraska  
Mr. David Grignon, Menominee Nation, Wisconsin Intertribal Repatriation Committee, Keshena Wisconsin  
Ms. Suzanne Griset, US Army Corps of Engineers, St. Louis, Missouri  
Mr. David Guldenzopf, Department of the Army, APG, Maryland  
Mr. Gilbert Gutierrez, Santa Clara Pueblo, Espanola, New Mexico  
Ms. Lesa K. Hagel, Lesa K. Hagel Word Processing, Rapid City, South Dakota  
Mr. Clay Hamilton, Hopi Tribe, Hotevilla, Arizona  
Ms. Lynne Harlan, Eastern Band of Cherokee Indians, Cherokee, North Carolina  
Mr. Frank Harrison, Cheyenne Arapaho Tribes, Concho, Oklahoma  
Ms. Sebra Harry, Pyramid Lake Paiute, Nixon, Nevada  
Ms. Valerie Hauser, Advisory Council on Historic Preservation, Washington, DC  
Mr. Dale Hayden, Museum of Indian Arts, Santa Fe, New Mexico  
Ms. Roberta Hayworth, US Army Corps of Engineers, St. Louis, Missouri  
Ms. Lorraine Heartfield, Stratigraphic Services, Santa Fe, New Mexico  
Mr. Milton Herrera, Tesuque Pueblo, Santa Fe, New Mexico  
Mr. Tony Herrera, Cochiti, Cochiti Pueblo, New Mexico  
Mr. Brent Hicks, Colville Tribe, Nespelem, Washington  
Ms. Susan Hirano, Office of the Chancellor, University of California at Berkeley, Berkeley, California  
Ms. Holly Houghten, Mescalero Apache Tribe, Mescalero, New Mexico  
Mr. Ted Howard, Shoshone-Paiute Tribes, Owyhee, Nevada  
Mr. Audie Huber, Umatilla Tribe, Pendleton, Oregon  
Mr. Robb Hunter, Confederated Salish and Kootenai Tribes, Pablo, Montana  
Ms. Barbara Isaac, Peabody Museum of Archaeology and Ethnology, Cambridge, Massachusetts  
Ms. Mary Alice Jaosin, Navajo, Albuquerque, New Mexico  
Mr. G. Peter Jemison, Haudenosaunee, Victor, New York  
Mr. Joseph T. Joaquin, Tohono O'odham Nation, Sells, Arizona  
Ms. Dyan J. Jojola, Isleta Pueblo, Atlixco Coalition, Isleta, New Mexico  
Mr. Larry A. Jordan, Colville Tribe, Nespelem, Washington  
Ms. Eunice Kahn, Diné, Santa Fe, New Mexico  
Mr. Jefferson Keel, Chickasaw Nation, Ada, Oklahoma  
Ms. Clara Sue Kidwell, University of Oklahoma, Norman, Oklahoma  
Mr. Tom Killion, Smithsonian Institution, Washington DC

Mr. Keith Kintigh, Society for American Archaeology, Arizona State University, Tempe, Arizona

Mr. Lyman Kionute, Sr., Caddo, Binger, Oklahoma

Mr. Rey Kitchkumme, Prairie Band Potawatomi Nation, Mayetta, Kansas

Mr. Jim Langford, The Coosawattee Foundation, Calhoun, Georgia

Ms. Signa Larralde, Bureau of Reclamation, Albuquerque, New Mexico

Ms. Lisa M. Leap, Grand Canyon National Park Service, Flagstaff, Arizona

Mr. Sebastian "Bronco" LeBeau, Cheyenne River Sioux Tribe, Eagle Butte, South Dakota

Mr. Pat Lefthand, Kootenai Tribe, Polson, Montana

Mr. Larry Littlebird, Santa Fe, New Mexico

Mr. Ronald Sam Little Owl, Mandan Sioux, ND Intertribal Reinterment Committee, Halliday, North Dakota

Ms. Gloria Lomahaftewa, Hopi/Choctaw, Heard Museum, Phoenix, Arizona

Mr. Garfield Long, Jr., Eastern Band of the Cherokee Nation, Cherokee, North Carolina

Mr. Edward M. Luby, Phoebe Hearst Museum, University of California at Berkeley, Berkeley, California

Ms. Rena Martin, Maxwell Museum, Bloomfield, New Mexico

Ms. Sandra Kaye Massey, Sac and Fox Nation of Oklahoma, Oklahoma

Ms. Carolyn McArthur, Colorado Historical Society, Denver, Colorado

Ms. Susan McCabe, Silver City, Nevada

Mr. David McNeece, Museum of New Mexico, Santa Fe, New Mexico

Ms. Sybil Melik, Museum of Indian Arts and Culture, Santa Fe, New Mexico

Mr. Thomas Merlan, Santa Fe, New Mexico

Mr. James Mermejo, Picuris Pueblo, Penasco, New Mexico

Ms. Jess Mermejo, Picuris Pueblo, Penasco, New Mexico

Mr. Richard Mermey, Picuris Pueblo, New Mexico

Ms. Sibel Melik, Museum of Indian Arts and Culture, Santa Fe, New Mexico

Mr. Tim Mentz, Sr., Standing Rock Sioux Tribe, Fort Yates, North Dakota

Mr. Bob Metcalf, Nome, Alaska

Mr. Miles R. Miller, Yakama/Nez Perce, Wapato, Washington

Ms. Susan Miller, University of Nebraska, Lincoln, Nebraska

Mr. Mark Mitchell, Tesuque Pueblo, Santa Fe, New Mexico

Ms. Marsha Monestersky, Sovereign Dineh Nation, Kaibito, Arizona

Ms. Liz Montour, Mohawk Nation Kahnawake, Denver Museum of Natural History, Denver, Colorado

Mr. John Moody, Abenaki, Sharon, Vermont

Ms. Grace Moore, Colville Tribe, Nespelem, Washington

T. Morquart, Hopi FDN/COO, Flagstaff, Arizona

Ms. Judy Morgan, State of Nebraska, Ponca Tribe of Nebraska, Lincoln, Nebraska

Ms. Kaea J. Morris, Geo-Marine, Inc., El Paso, Texas

Mr. Chris Morton, student, Cambridge, Massachusetts

Ms. Loretta Moseley, National Park Service, Mountainair, New Mexico

Ms. Colleen M. Moses, Colville/Nez Perce, Coulee Dam, Washington

Mr. Alvin Moyle, Fallon Paiute-Shoshone Tribe, Fallon, Nevada

Ms. Lynn Murdoch, Idaho Museum of Natural History, Idaho State University, Pocatello, Idaho

Mr. Ed Natay, Intermountain Support Office, National Park Service, Santa Fe, New Mexico

Ms. Theresa Nichols, National Park Service, Aztec Ruins, Aztec, New Mexico

Ms. Nila Northsun Wright, Fallon Paiute-Shoshone Tribe, Fallon, Nevada

Mr. Ernest Ortega, National Park Service, Santa Fe, New Mexico

Mr. Roger Paini, Santa Fe, New Mexico

Mr. Fred Parton, Caddo, Anadarko, Oklahoma

Ms. Lucille Parton, Caddo, Anadarko, Oklahoma

Mr. Joe Pechonick, Delaware Tribe of Indians, Dewey, Oklahoma

Ms. Paula Pechonick, Delaware Tribe of Indians, Dewey, Oklahoma  
Ms. Susan Perlman, SWCA, Inc. Environmental Center, Albuquerque, New Mexico  
Mr. James Pepper Henry, National Museum of the American Indian, Kaw/Muskogee, Bronx, New York  
Ms. Elaine F. Peters, Ak Chin Indian Community, Maricopa, Arizona  
Ms. Ramona Peters, Wampanoag Confederation, Mashpee, Massachusetts  
Mr. Peter M. Pino, Pueblo of Zia, Zia Pueblo, New Mexico  
Ms. June-el Piper, Navajo Nation employee, Albuquerque, New Mexico  
Ms. Delores Poncho, Alabama Coushatta Tribe, Livingston, Texas  
Mr. Clyde Qutsuisivama, Hopi, Kykotsmovi, Arizona  
Ms. Leta Rector, Cherokee, Sapulpa, Oklahoma  
Mr. Joby Redcorn, Santa Fe, New Mexico  
Ms. Marla Redcorn, Santa Fe, New Mexico  
Mr. Soy Redthunder, Colville/Nez Perce, Elmer City, Washington  
Ms. Judy Reed, National Park Service, Pecos, New Mexico  
Ms. Charla Reeves, Peoria Tribe, Miami, Oklahoma  
Mr. Steven Rezz, Navajo Nation, Window Rock, Arizona  
Ms. Janie Rhinesmith, Alabama-Coushatta Tribe, Livingston, Texas  
Mr. James Riding-In, Arizona State University, Pawnee Nation, Tempe, Arizona  
Mr. Jed Riffe, Independent Producers Services, Berkeley, California  
Ms. Alexa Roberts, National Park Service, Santa Fe, New Mexico  
Ms. Donna Roberts, Abenaki, Sharon, Vermont  
Mr. Austin Rock, Santa Clara Pueblo, Espanola, New Mexico  
Mr. Jerry Rogers, National Park Service, Santa Fe, New Mexico  
Mr. Dallas Ross, Minnesota Indian Affairs Council, Granite Falls, Minnesota  
Mr. Victor Roubidoux, Iowa Tribe of Oklahoma, Perkins, Oklahoma  
Mr. Ed Roybal, Piro/Manso/Tiwa Indian Tribe, Las Cruces, New Mexico  
Mr. Gary Roybal, Bandelier National Monument, Pueblo of San Ildefonso, New Mexico  
Mr. Victor E. Roybal, Piro/Manso/Tiwa Indian Tribe, Las Cruces, New Mexico  
Ms. Elizabeth Sackler, American Indian Ritual Object Repatriation Foundation, New York, NY  
Ms. Alyce Sadongei, Kiowa/Tohono O'odham, Tucson, Arizona  
Ms. Virginia Salazar, National Park Service, Santa Fe, New Mexico  
Mr. Merton Sandoval, Jicarilla Apache, Dulce, New Mexico  
Mr. Randy Sandoval, Jicarilla Apache, Dulce, New Mexico  
Ms. Sarah Schlanger, Museum of Indian Arts and Culture, Santa Fe, New Mexico  
Ms. Cherie Schick, Santa Fe, New Mexico  
Mr. Gary Selinger, University of Alaska Museum, Fairbanks, Alaska  
Ms. Janet Seville, Lyons, Illinois  
Ms. Velda Shelby, Ktunaxa Nation, Pablo, Montana  
Mr. Benny Shendoah, Jr., Pueblo of Jemez, Jemez, New Mexico  
Ms. Patty Shinn, Seneca-Cayuga Tribe of Oklahoma, Quapaw, Oklahoma  
Mr. Jon M. Shumaker, Ak Chin Indian Community, Maricopa, Arizona  
Mr. Dan Simplicio, Zuni, Zuni, New Mexico  
Mr. Alvin Slow Bear, Oglala Sioux Tribe, Pine Ridge, South Dakota  
Mr. Phil Sosywisana, Maricopa/Pima, Laveen, Arizona  
Mr. David Lee Smith, Winnebago Tribe of Nebraska, Nebraska  
Mr. Joseph Sotranz, Ojibwa, Chicago, Illinois  
Mr. Joseph Standing Bear, White Earth Ojibwa, Chicago, Illinois  
Mr. Joseph Suina, Cochiti Pueblo, New Mexico  
Mr. Simon E. Suina, Cochiti Pueblo, New Mexico  
Mr. Virgil Swift, Wichita Tribe, Oklahoma  
Ms. Gloria Swingson, Colville Confederated Tribes, Nespelem, Washington  
Mr. Robert Tabor, Cheyenne-Arapaho Tribes of Oklahoma, Concho, Oklahoma  
Ms. Dorothea Theodoratus, Central Sierra Me-Wuk Committee Consultant, Fair Oaks, California

Mr. Russell Thornton, Cherokee Nation of Oklahoma, Smithsonian Repatriation Review Committee, University of California Los Angeles, Los Angeles, California  
Mr. Stan C. Timentwa, Colville Confederated Tribes, Nespelem, Washington  
Mr. Robert Tomarawash, Wahapum, Ephrata, Washington  
Ms. Carmelita Topuha, Navajo, Albuquerque, New Mexico  
Ms. Linda Towle, National Park Service, Mesa Verde, Colorado  
Mr. Joe Toya, Native, Santa Fe, New Mexico  
Ms. Christy Turner, Smithsonian Repatriation Committee, Arizona State University, Tempe, Arizona  
Ms. Teresa Valencia, Guadalupe Mountains National Park, Salt Flat, Texas  
Mr. Ernest M. Vallo, Sr., Acoma Pueblo, Acoma, New Mexico  
Ms. Margaret Vazquez-Giffey, New Mexico Highlands University, Las Vegas, New Mexico  
Mr. Elmer Vigil, Tiwa Tesuque Pueblo, Tesuque, New Mexico  
Mr. Jose L. Villegas, Sr., Petroglyphs Por Los Ninos Coalition, Santa Fe, New Mexico  
Mr. Hollis Walker, Santa Fe New Mexican Newspaper, Santa Fe, New Mexico  
Mr. Joe Watkins, Bureau of Indian Affairs, Anadarko, Oklahoma  
Mr. Roy Weaver, Bandelier National Monument, Pueblo of San Ildefonso, New Mexico  
Ms. Yvette Weeks, Wisconsin Intertribal Repatriation Committee, Oneida, Wisconsin  
Mr. William Whatley, Pueblo of Jemez, Jemez Pueblo, New Mexico  
Ms. Lucy Whalley, US Army, Champaign, Illinois  
Ms. Germaine White, Confederated Salish and Kootenai Tribes, Pablo, Montana  
Mr. Don Whyte, Mesa Verde National Park, Mesa Verde, Colorado  
Mr. Larry T. Wiese, National Park Service, Mesa Verde, Colorado  
Mr. LeRoy Williams, Colville Confederated Tribes, Nespelem, Washington  
Mr. Tom W. Wilson, Colville/Nez Perce, Coulee Dam, Washington  
Ms. Kathy Womer, Colville Confederated Tribes, Nespelem, Washington  
Ms. Danette D. Woodmansee, Oneida Nation, Wisconsin  
Mr. Frank E. Wozniak, Southwestern Region, Forest Service, Albuquerque, New Mexico  
Mr. Katie Wright, Smithsonian Institution, Washington DC  
Mr. Mitch Wright, Washoe Tribe of Nevada and California, Gardnerville, Nevada  
Ms. Bonnie Wutlunee-Wadsworth, Shoshone-Bannock, Santa Fe, New Mexico  
Mr. Bill Wyatt, Pueblo of San Ildefonso, Santa Fe, New Mexico  
Ms. Pemina Yellow Bird, Mandan, Hidatsa & Arikara - Three Affiliated Tribes, Lawrence, Kansas  
Mr. Gordon Yellowman, Cheyenne-Arapaho Tribes of Oklahoma, Concho, Oklahoma  
Mr. Phil Young, National Park Service, Santa Fe, New Mexico  
Mr. Hal Zelkind, Department of Interior Office of the Inspector General, Lakewood, Colorado

Ms. Naranjo welcomed the Review Committee members and members of the audience. Governor Manual Archuleta of Picuris Pueblo gave the opening invocation. The Review Committee members introduced themselves.

Mr. Jerry Rogers, Superintendent of the NPS Southwest Support Office, welcomed the Review Committee members and audience members to Santa Fe and offered the support of the NPS Southwest Support Office throughout the course of the meeting.

Review of the Agenda

Mr. McManamon welcomed the Review Committee members and audience members. He explained that the meetings, which are business meetings for the committee, are open to the public with scheduled public comment periods; however, most of the public comment time was reserved for individuals requesting an opportunity to speak prior to the meeting. Mr. McManamon expressed his appreciation to the Review Committee members and NPS staff for their work on implementing the Statute. He then gave a brief review of the agenda.

#### Implementation Update

Mr. McManamon explained that each Review Committee member had a summary in their binder of the progress made in NAGPRA implementation since the previous meeting in Portland, Oregon in June 1998.

#### Museum/Federal Agency Collections

Summaries: The NPS has received summaries from 1,032 institutions and is currently in the process of entering the information into the database.

Inventories: The NPS has received inventories from 733 institutions and is currently reviewing the inventories. Mr. Bradley asked what percentage of the expected total of agencies and institutions are represented in the report. Mr. McManamon replied that given the length of time the law has been in effect and the level of outreach activities of both the NPS staff and the Review Committee members, that approximately 90 percent of required organizations have complied.

Federal Register Notices: To date, the NPS has published 249 Notices of Inventory Completion, covering 13,803 individual sets of Native American human remains and 291,807 associated funerary objects. The NPS has also published 106 Notices of Intent to Repatriate, covering 39,873 unassociated funerary objects, 776 sacred objects, 429 objects of cultural patrimony, and 281 objects that fit both the sacred object and object of cultural patrimony categories. In response to a question from Ms. Naranjo, Mr. McManamon stated 134 notices were awaiting publication. He explained that the process of publication is time-consuming in order to ensure compliance with the statute, and the NPS has only one to two full-time staff available to work on notice publications. Ms. Naranjo recalled discussions at the Portland meeting concerning the need for additional resources for the NPS, which resulted in a letter from the Review Committee members to Secretary Babbitt. Mr. McManamon explained that there has been no response from the Secretary to date. Mr. Minthorn stated the backlog is causing delays in repatriation determinations and suggested a follow-up letter to the Secretary. Mr. Hart added that in addition to letters from the Review Committee, more tribal support is needed in seeking additional funding.

Grants: Since 1994, 116 grants totaling \$6.5 million were awarded to Indian tribes and Native Hawaiian organizations, and 89 grants totaling \$4.2 million were awarded to museums. In 1998, grants totaling \$2.3 million were awarded to Indian tribes and Native Hawaiian organizations, and four grants were awarded to Indian tribes for repatriation of human remains, funerary objects and other cultural objects. The NPS received 49 proposals for tribal grants and 19 proposals for museum grants for Fiscal Year 1999. Mr. Minthorn stated tribal consultation needs to be emphasized to museums and institutions.

Extensions: In 1995, 58 institutions were granted time extensions for inventory completion. To date, 51 institutions completed work on their inventories and

one institution is still under a time extension. Mr. McManamon explained that after an original extension deadline of November 16, 1998 passed, six museums made an appeal to the Secretary for additional extensions. Ms. Naranjo expressed concern at the limited information provided in the request for extension from the University of Texas at Austin.

**Civil Penalties:** Mr. McManamon stated the civil penalties regulations were published as interim regulations and are in force. The civil penalty process involves an individual or group bringing an organization suspected of not being in compliance with NAGPRA to the attention of the Secretary. The NPS staff conducts an initial review of the situation which is followed by contact with the involved organization and further investigation as necessary. Ms. Mattix explained the Secretary is authorized by the Act to assess civil penalties on any museum that fails to comply with the requirements of the Act. Mr. Minthorn disagreed with granting additional time extensions. He stated that civil penalties need to be enforced, again substantiating the need for additional resources for the NPS to implement NAGPRA. Mr. McManamon explained that requests for additional resources for civil penalty implementation have been made at the program level, which have been unsuccessful. He added that additional support from the Review Committee might be helpful. Mr. O'Shea cautioned against a blanket refusal of extensions to all institutions, as some have been acting in good faith.

**Native American Consultation Database:** Ms. Schansberg stated that the Native American consultation database became available on the World Wide Web on November 6, 1998 and contains all hard copy consultation information maintained by the NPS since 1992. Information on the database is searchable by tribe, state, county, contact name, reservation, and Air Force installation. Information from the remaining military installations and Federal agencies will be added in the future. Two different types of reports can be generated using the database, a full data report containing tribal association with land claims established judicially by the Indian Claims Commission and a NAGPRA contact report. Items of particular interest to Indian tribes can also be listed in the database, at the discretion of individual Indian tribes.

#### Excavations/Discoveries

**Bonnichsen v. USACOE:** Mr. McManamon reported that in consultation with Indian tribes and working with the Corps of Engineers and the Department of Justice the NPS completed a document that provides for documentation, analysis, interpretation and disposition of the human remains found at Kennewick, Washington. A draft of this document was previously discussed at the Portland meeting. A team of experts will be assembled in the spring of 1999 to conduct the initial examination, documentation and interpretation of the human remains, which are currently being held at the Burke Museum, University of Washington.

#### Trafficking

Mr. McKeown stated that there have been eleven successful prosecutions under the NAGPRA statute since 1992. Three of the individuals were prosecuted for trafficking in Native American human remains and the remaining individuals were prosecuted for trafficking in Native American cultural items. Since the Portland meeting, one person was convicted for selling a Navajo medicine bundle for \$6,000 in Arizona.



## Overview of Culturally Unidentifiable Native American Human Remains

Mr. McManamon explained that for the past three to four years, the Review Committee members have been working on the issue of culturally unidentifiable human remains and have made three attempts at drafting recommendations, including a draft at the previous meeting in Portland, Oregon entitled "Draft Principles of Agreement Regarding the Disposition of Culturally Unidentifiable Native American Human Remains." The drafts were designed as a starting point for more detailed discussions about culturally unidentifiable human remains. He stated that some of the different categories of culturally unidentifiable human remains contained in the draft principles might be represented in the requests before the Review Committee members at the Santa Fe meeting and might lead to additional ways of addressing the general situation of culturally unidentifiable human remains. Ms. Mattix emphasized the need for consistency among recommendations regarding individual cases.

Mr. McKeown described the database of culturally unidentifiable human remains and associated funerary objects. The database contains information on both culturally affiliated and culturally unidentifiable human remains in order to compare their geographical locations. Inventories from 57 institutions were entered into the database and include 8,061 culturally unidentifiable human remains and 24,952 associated funerary objects. Of the database entries, 82 percent of culturally unidentifiable human remains and 99 percent of associated funerary objects came from a known location (where both the state and county were identified); 69 percent of culturally unidentifiable human remains and 87 percent of associated funerary objects came from a known earlier group (PaleoIndian, Archaic, Anasazi, Sinagua, Plains Woodland, etc.); 14 percent of culturally unidentifiable human remains and four percent of associated funerary objects were affiliated with a known ancient group (PaleoIndian or Archaic designation).

## Specific Requests Regarding The Disposition of Culturally Unidentifiable Native American Human Remains

### Request From Carlsbad Caverns National Park/Guadalupe Mountains National Park

Mr. Jeff Denny, Curator at Carlsbad Caverns National Park, explained he was speaking on behalf of both Carlsbad Caverns National Park and Guadalupe Mountains National Park for a request to repatriate culturally unidentifiable human remains and funerary objects from three known sites within park lands to a unified group of twelve Indian tribes who have demonstrated traditional, cultural and historical relationships to the Carlsbad Caverns and Guadalupe Mountains regions. The twelve Indian tribes are the Mescalero Apache Tribe, Jicarilla Apache Tribe, Fort Sill Apache Tribe, Kiowa Tribe of Oklahoma, Hopi Tribe, Pueblo of Zia, Ysleta del Sur Pueblo, Pueblo of Zuni, Comanche Tribe, White Mountain Apache Tribe, San Carlos Apache Tribe, and Apache Tribe of Oklahoma. Despite contact with other Indian tribes and New Mexico pueblos, the parks have not received responses from any other groups. All three sites are within the aboriginal territory of the Mescalero Apache Tribe, as determined by the Indian Claims Commission, and are adjacent to the aboriginal lands of the

Chiracauha Apache, Fort Sill Apache Tribe, Western Apache Tribe, Jicarilla Apache Tribe, Kiowa Tribe, Comanche Tribe, and Apache Tribes of Oklahoma.

Mr. Denny reported that during consultation meetings with the Indian tribes, a consensus agreement was developed which stated that the remains should be repatriated and returned to their original locations. The twelve Indian tribes agreed to seek repatriation of the materials as a group and that no definitive determination of cultural affiliation of the remains with a specific Indian tribe would be sought. He explained that the parks were proposing to use the standards provided in the inadvertent discovery section of NAGPRA to repatriate these individuals to this group of Indian tribes that demonstrated a cultural relationship to park lands.

The human remains and funerary objects from two of the known sites were believed to be from the Archaic period in West Texas and Southeastern New Mexico, which is approximately 6000 BC to 500 AD, based upon the type and dating of the materials from the first site. Although no direct line has been established through archaeology or anthropology that would tie Archaic period people to modern-day Indian tribes in this region, many of the groups do place Archaic period populations into their oral histories. The surface materials from the first site were most likely associated with the Mescalero Apache, due to their known frequent use of the area. The only information available for the third site is the location; however, the human remains and funerary objects are presumed to be Native American since they were found in association with Native American pictographs, and there are no records or stories of Anglo or historic American burials in that area. Within the immediate vicinity of the third site, there is evidence of at least three different cultures, the Archaic period, the Joronado-Mogollon period and the Apache occupation of the Guadalupe Mountains.

Ms. Ellyn Bigrope, Mescalero Apache Tribe, explained the Guadalupe Mountains are sacred to the Indian tribe, one of the sacred dances of the Indian tribe came from the Guadalupe Mountains, and the Indian tribe still has strong ties and interests to the mountains. She expressed the desire of the Mescalero Apache Tribe to be one with the other 11 Indian tribes to repatriate these human remains for proper reburial.

Mr. Merton Sandoval, Jicarilla Apache Tribe, expressed concern that the human remains are in the possession of the NPS and explained that this group of Indian tribes, with the support of the Carlsbad Caverns National Park, has come together to ask that the human remains be reburied as soon as possible. He stated that through oral traditions, legends and stories, the Jicarilla Apache Tribe has ties to the Carlsbad Caverns.

Mr. Michael Darrow, Fort Sill Apache Tribe, stated that one of the ceremonies of the Fort Sill Apache Tribe comes specifically from the Guadalupe Mountains. He stated that one of the reasons for NAGPRA is for Native American remains and related practices to be treated with the same degree of respect accorded to non-Indian Western society practices. Exhuming, sampling, studying, documenting and exhibiting human remains of any age is considered disrespectful by the Indian tribe, and age and relative connection with currently existing cultures are not criteria for determining the degree of respect to be accorded to human remains and associated items. He explained that although his people have a great regard for knowledge, learning and science, they need to be acquired legitimately in a culturally appropriate context. The proposal appears to be appropriate and is acceptable to the Fort Sill Apache Tribe.

Mr. George Daingkau, Kiowa Tribe of Oklahoma, thanked the Review Committee for allowing the presentation of the proposal and stated the Kiowa Tribe of Oklahoma sent their regards. He explained the tribal council unanimously consented that the Kiowa Tribe of Oklahoma would join with this proposal and continue to help in any way, so that the ancestors would be put in their final resting place.

Mr. Clyde Qutsuisivama, Hopi Tribe, explained that oral tradition of the Hopi Tribe shows migration of clans through the area, and prayer offerings are still made to these regions. He stated these remains are not considered abandoned by the Hopi Tribe, and the Indian tribe supports the request proposed by the two parks.

Review Committee Discussion: The Review Committee members agreed that this situation provides a very good model of a regionalized effort to repatriate culturally unidentifiable human remains, and the two parks and the tribal groups have done an excellent job working together toward this goal. Mr. Minthorn stressed the importance of oral tradition and need for protection of the human remains and funerary objects after reburial, since they would be returned at or near their original locations on NPS land.

The Review Committee members agreed that the repatriation of human remains and funerary objects proceed and emphasized the importance of the following points: consideration of the issue of cultural affiliation and the conclusion that these human remains were culturally unidentifiable for the purposes of NAGPRA; consultation with Indian tribes having potential interest in the human remains and funerary objects; adherence to the guidelines of NAGPRA and the required documentation; consideration of the potential scientific and educational value of these human remains and funerary objects, as well as the future likelihood of a determination of cultural affiliation; and finally, the parties have come before the Review Committee to ask if the return of these remains and funerary objects to the Indian tribes is appropriate, despite the fact that a firm cultural affiliation has not been determined. Mr. McManamon stated that a letter would be sent from the Secretary of the Interior to the Director of the NPS outlining these points and the recommendation for repatriation, which would be followed by a Federal Register Notice of Inventory Completion.

#### Request From Harvard University

Ms. Trish Capone, Peabody Museum of Archaeology and Ethnology, Harvard University, stated that the museum is seeking a recommendation from the Review Committee to the Secretary of the Interior to allow repatriation of two sets of culturally unidentifiable human remains from Uxbridge and Concord, Massachusetts to a non-Federally recognized Indian group, the Nipmuc Nation of Central Massachusetts. The Peabody Museum followed the five-step process outlined in an August 1996 Review Committee recommendation: One, consultation with the Nipmuc Nation confirming the individuals were from Nipmuc traditional territories; two, an attempt to determine cultural affiliation using historical, archaeological and oral tradition as evidence; three, consultation with Federally recognized groups with a potential geographical interest in the area (the Wampanoag Confederation provided a formal letter of support for each case and the Stockbridge-Munsee confirmed that the individuals were from a traditional area of the Nipmuc Nation and provided oral support for the repatriation); four, an agreement between the Peabody Museum of Archeology and Ethnology, the Nipmuc Nation, and the Wampanoag Confederation to repatriate to a non-Federally recognized Indian group; and five, a request for a recommendation to the Secretary of the Interior that these remains be repatriated to the Nipmuc Nation.

Mr. John Brown, Narragansett, stated due to time date and geographical location the claim is clearly Nipmuc. He explained that the Narragansett Tribe was not consulted on this matter, but supports repatriation of these remains to the Nipmuc Nation and would have written a letter of support in favor of the repatriation due to ancient ties with the Nipmuc people.

Review Committee Discussion: The Review Committee members agreed to recommend repatriation of the two sets of culturally unidentifiable remains to the Nipmuc Nation from the Peabody Museum at Harvard. Mr. O'Shea commented about the need for guidance encouraging consultation on a broad basis, perhaps erring on the side of inclusion. Mr. Minthorn once again stressed the importance of consultation and the need for follow-up to museums and universities on the definition of consultation. He pointed out many avenues are available to gather consultation data. Mr. McManamon stated that the NPS would draft a letter from the Secretary of the Interior to the Peabody Museum at Harvard outlining the recommendation, which would then be followed by a Federal Register Notice of Inventory Completion.

#### Request from the Fine Arts Museum of San Francisco

Committee Discussion: Mr. Hart explained that the Fine Arts Museum of San Francisco is requesting a recommendation from the Review Committee for disposition of 91 objects which the museum considers to be associated burial goods excavated in approximately 1902 from Point Richmond, Contra Costa, California. After discussion, the Review Committee members stated that based on lack of information the objects could not be determined to be objects of cultural patrimony, sacred objects, or funerary objects. The NPS will write a response to the Fine Arts Museum requesting additional information to determine if the objects are covered by the statute.

#### Request from the Commonwealth of Virginia

Committee Discussion: Ms. Mattix explained to the Committee that the letter from the Commonwealth of Virginia was an informational letter provided to the Review Committee. The reburial discussed in this particular situation did not fall under NAGPRA since the human remains were excavated on private land and the Virginia burial law does not appear to establish the Commonwealth's control of the human remains. No action was required on the part of the Review Committee members.

#### Request from the Minnesota Indian Affairs Council

Mr. Dallas Ross, Chairman of the Minnesota Indian Affairs Council and the Upper Sioux Community of Dakotas, stated he was back before the Committee to discuss the proposal by the Minnesota State Archaeologist and the Minnesota Indian Affairs Council as to the disposition of culturally unidentifiable human remains in the possession of the council. Mr. Ross expressed confusion regarding the Review Committee's recommendation at the January 1998 meeting in Washington DC and the information requested in subsequent letters from Mr. McManamon and the NPS office. The letters required the consent of Indian tribes outside of the state of Minnesota while allowing repatriation to Indian tribes or reservations only within the State of Minnesota. The council has taken great pains to contact everyone that should be contacted and to meet the other requirements that were set forth by the Review Committee in contacting additional Indian tribes. As noted in the documentation, not all Indian tribes have responded.

Mr. Ross asked what an acceptable time period would be to wait for a response from these Indian tribes, to fulfill the requirement of written consent. He stated he did not wish to give the impression that he was trying to speed this process along in order to avoid communication, and stated he will continue to communicate with other Indian tribes until these human remains are reburied. He feels the human remains do not belong to the people who have them now, including the Minnesota Indian Affairs Council. They belong to the earth which is protecting them and the Creator that created the place for them.

Mr. McManamon apologized for the delay in the response from the NPS office to the council and the Minnesota State Archaeologist and any confusion created by correspondence. He explained that the correspondence was a direct result of the Review Committee member's recommendations and suggestions at the January 1998 meeting. One of the concerns of the Review Committee members at that time, which the NPS attempted to address in the letter to the council and the state archaeologist, was the concern that the human remains in question had been recovered from within the state of Minnesota and would have been subject to the state laws if NAGPRA did not exist. The request from the council and the state archaeologist was essentially to follow the state procedures. The Review Committee members were concerned that Federally recognized Indian tribes or non-recognized Indian groups currently not residing within the state of Minnesota might also have an interest in the disposition of these human remains. The Review Committee members asked the council and the state archaeologist to ensure that representatives of those Indian tribes were aware of this plan, Federally recognized Indian tribes needed to provide written concurrence with the proposed repatriation and non-Federally recognized Indian groups were given an opportunity for comment, a notice of inventory completion needed to be published in the Federal Register, and any documentation that exists for the culturally unidentifiable human remains would be available for educational and scientific uses.

The Review Committee members asked the NPS to look at the inventory and ensure that it was complete. Thereafter, the NPS responded in writing to the council and the state archaeologist that a preliminary review of the inventory submission indicated the information for the culturally affiliated and culturally unidentifiable inventories was complete. Mr. McManamon stated that following the Santa Fe meeting, the NPS would review the issue to determine the reason for the use of the word "preliminary" and confirm that the inventory was complete. Mr. Ross responded that all available information on the human remains had been provided.

Mr. McManamon explained that the conditions listed in the letter were not formulated by the DOI but were based upon the Review Committee members' discussion at the January meeting. The standard of written concurrence in this situation was very high, especially with the large number of Indian tribes involved. In this situation the council was dealing with an entire state, and in past discussions the Review Committee members have dealt with much smaller groups. When issuing recommendations for repatriation to non-Federally recognized Indian groups, the Review Committee members have always required written concurrence from potentially affiliated Federally recognized Indian tribes. The Peabody Museum was very careful to have that type of information available regarding the Nipmuc situation before coming to the Review Committee. Mr. McManamon stated the Review Committee could change its recommendation to require consultation within a certain time period, rather than written concurrence.

Review Committee Discussion: Mr. O'Shea reminded the other Review Committee members that the requirement of concurrence was to protect the rights of Federally recognized Indian tribes, and added that consultation time limits might have implications in later situations. Mr. Bradley commented that the standard of written concurrence was very high and perhaps what the Review Committee members meant was a standard of notification. Ms. Mattix stated the Review Committee members could change the recommendation to a different standard, but they needed to document reasons for the change. Mr. O'Shea expressed concern about changing from a standard of consent to a standard of notification, which may be considered unacceptable in other circumstances. Mr. Bradley stated in this case he felt there had been sufficient consultation and discussion on the part of the council and the state archaeologist, resulting in agreement between the two parties on how to proceed with repatriation of the culturally unidentifiable human remains.

Mr. McKeown pointed out the Minnesota Indian Affairs Council provided the Review Committee members with what might be considered a record of consultation, including documentation of letters and telephone calls, which is the requirement for Federal agencies in terms of inadvertent discoveries or planned excavations. Mr. Ross added that during the course of his presentation, he received two letters of concurrence from individuals present at the meeting representing the Indian tribes at issue in this discussion, the Turtle Mountain Band of Chippewa, Standing Rock Sioux Tribes, Spirit Lake Sioux and the Three Affiliated Tribes.

The Review Committee members changed their recommendation to ask for written evidence of notification and a record of consultation, as provided by the council. They advised the council to proceed with publication of their Notice of Inventory Completion in the Federal Register and then repatriation. Mr. Minthorn stated the situation substantiates the need for clarification of what consultation means. Mr. Hart added the situation also points to the urgency of establishing recommendations on the disposition of culturally unidentified human remains.

#### Request from the University of Nebraska at Lincoln

Ms. Priscilla Grew, NAGPRA Coordinator and Vice Chancellor for Research at the University of Nebraska at Lincoln (UNL), stated she was presenting a request to repatriate culturally unidentifiable human remains currently under the control of the UNL state museum. On September 1, 1998, UNL Chancellor James Moeser signed an agreement with representatives from a group of Indian tribes from the Great Plains. The nations represented at the meeting claimed culturally unidentifiable human remains listed in the UNL inventory. At that meeting, Chancellor Moeser stated the policy of the UNL was to work toward the repatriation of all Native American human remains, affiliated and culturally unidentifiable, currently held at the UNL, in a systematic, accurate and respectful manner in compliance with Federal law. He apologized on behalf of the UNL for the insensitive and grievous treatment of Native American human remains.

A letter was sent to the Review Committee members requesting a recommendation for repatriation of the culturally unidentifiable human remains, and a copy of the inventory of those human remains and the September 1st agreement were included. The group of Indian tribes making the claim include the Omaha Tribe of Nebraska, Santee Sioux Tribe of Nebraska, Winnebago Tribe of Nebraska, Ponca Tribe of Nebraska, Ponca Tribe of Oklahoma, Pawnee Nation of Oklahoma, North Dakota Intertribal Reinterment Committee for the tribes of North Dakota, including the Three Affiliated Tribes (Arikara, Mandan and Hidatsa), Standing

Rock Sioux Tribe, Turtle Mountain Band of Ojibwa, Spirit Lake Nation, Iowa Tribe of Oklahoma, Kickapoo Tribe of Kansas, Yankton Sioux Tribe, Cheyenne River Sioux Tribe, Oglala Sioux Tribe, and Rosebud Sioux Tribe. Meetings with representatives from these Indian tribes were held in Lincoln, Nebraska, where tribal representatives selected Ms. Pemina Yellow Bird of the Three Affiliated Tribes and the North Dakota Intertribal Reinterment Committee to chair those meetings and make a presentation on behalf of this group of Indian tribes to the Review Committee.

Ms. Pemina Yellow Bird, Three Affiliated Tribes and the North Dakota Intertribal Reinterment Committee, stated that she was present as chair of a working group assembled to deal with the issues at the UNL. On September 1, 1998, the group made a joint intertribal claim to all of the so-called culturally unidentifiable human remains in the possession of the UNL. All of the signatory Indian tribes to the claim are Indigenous nations who have aboriginal homelands within the state of Nebraska. The group made the claim for these ancestors out of a desire to show respect and a promise to bring them home. These human remains were abused, mistreated, disrespected, seriously traumatized, and harmed. Ms. Yellow Bird stated that the law is very clear; NAGPRA contains a mechanism that allows for joint intertribal claims made by Indian tribes that have a shared or collective aboriginal homelands. The group came before the NAGPRA Review Committee after being threatened with lawsuits by individuals from the science and museum industries to stop the repatriation, and to prevent further development of that situation. She explained that the group has established a shared group identity and through oral history can show their relatives lived within what is now known as the state of Nebraska.

Review Committee Discussion: Mr. Bradley asked for the status of both affiliated and culturally unidentifiable human remains at the UNL. Ms. Grew replied that on September 30th draft Notices of Inventory Completion for all of the culturally affiliated human remains were sent to the NPS. The notices for the Omaha Tribe, Ponca Tribe of Nebraska, and Ponca Tribe of Oklahoma were published in the Federal Register. The NPS staff was currently reviewing the notices for the Pawnee, Arikara, and Wichita Tribes, two notices involving Alaskan human remains, and one notice for a joint claim for human remains from the state of Nebraska from a group of Indian tribes. She explained that the total number of individually distinct human remains at the University of Nebraska is approximately 1,700, and the group of culturally unidentifiable human remains presently before the Review Committee included 152 individuals. She stated that the UNL complied with NAGPRA requirements in the preparation of summaries and inventories. The group of human remains before the Review Committee today and another group from the state of Nebraska were previously identified as culturally unidentifiable due to a past standard to affiliate human remains with single Indian tribes. In the evolution of the implementation of NAGPRA, shared group affiliation has been implemented. During the past year, controversial events at the UNL heightened the consciousness of the responsibilities under NAGPRA, and the UNL decided to take a proactive approach to work within these evolving procedures. Ms. Yellow Bird added that the issue before the Review Committee at the Santa Fe meeting dealt with 152 culturally unidentifiable Native American human remains, many of which came from UNL teaching collections and had no known affiliation.

Mr. Bradley asked about the UNL's consultation history. Ms. Grew replied that consultation was confined to affiliated groups and was not attempted on any of the culturally unidentifiable human remains. She reported that the UNL had one repatriation through the Federal Register process in 1995 to the Ponca Tribe of Nebraska and Ponca Tribe of Oklahoma and one repatriation pursuant to state law

in 1991 for the Omaha Tribe of Nebraska initiated pre-NAGPRA. Ms. Yellow Bird commented the UNL demonstrated in the best possible way how to consult with Indian tribes by asking questions to determine what the Indian tribes needed and wanted. The UNL was very gracious, accommodating, respectful and went above and beyond the call of duty in many respects.

Mr. Sullivan asked about the possibility of non-Native American human remains being included in this group of culturally unidentifiable human remains. Ms. Grew replied that Dr. Mory Janson (phonetic), a consultant from Wichita State University, examined the human remains. Any definite non-Native American human remains were not included in this group. All other human remains were included in the group of culturally unidentifiable human remains, and no further research or analysis will be conducted in accordance to the Indian tribes' preference. Given their history and the type of collection assembled over 100 years of archaeological collecting, the UNL feels it is likely that these are Native American human remains and therefore it is legitimate to bring them before the Review Committee.

Mr. O'Shea stated he remained conflicted in making a recommendation given that this situation seemed a little abrupt compared to the presentation regarding the situation at Carlsbad Caverns National Park. Ms. Yellow Bird replied that the law was very clear and states that joint intertribal claims of ancestral Native American human remains can be made based upon a preponderance of the evidence. The group has established a shared group identity by gathering together indigenous nations that can claim what is now known as the state of Nebraska as aboriginal homelands. Tribal identification does not need to be proven by scientific certainty but can be based on oral history and geographic occupation.

Mr. Sullivan, Mr. Bradley, Ms. Naranjo, Ms. Metcalf, Mr. Hart, and Mr. Minthorn recommended that the repatriation should proceed. Mr. O'Shea remained conflicted about the recommendation. Mr. McManamon stated that the Secretary of the Interior would send a letter to the UNL stating repatriation of the 152 culturally unidentifiable human remains from UNL to this group of Indian tribes could proceed.

## Implementation of the Statute in the Southwest

### Pueblo of Cochiti

Mr. Joseph Suina, Governor of the Pueblo of Cochiti, explained that the Pueblo people are among the least changed with European contact. The Pueblo of Cochiti, with a population of 1,000, is considered one of the traditional Pueblos of New Mexico. The way of life of Cochiti is very enhanced in terms of ceremonial life, and the theocratic government is at the core of their daily existence. A matter of concern to the Pueblo of Cochiti is confidentiality of certain Pueblo knowledge. The confidentiality issue is not a matter of Indian/non-Indian, some knowledge is reserved for certain groups or certain individuals within the Pueblo of Cochiti and is given to individuals based on maturity, gender, and commitment. The Pueblo of Cochiti attempted to have things returned through the NAGPRA process beginning in 1996. Even after a religious leader identified items that were important to the Pueblo, they were unable to repatriate the items because of the requirement to explain what the items were for and when they were used. He stated that the Pueblo of Cochiti would walk away from these items that are very important and sacred rather than reveal this information.



Mr. McManamon explained that sacred objects by the definition in NAGPRA are specific ceremonial objects which are needed by traditional Native American religious leaders for the practice of Native American religions by their present-day adherents. The NPS and the Pueblo agreed that some of the objects are sacred, and for those objects the NPS is in the process of announcing their availability for repatriation. However, other objects identified by the religious leaders appeared in a physical sense to be utilitarian objects. The NPS, while considering its responsibility to maintain scientific collections for educational purposes, felt that those particular objects did not fit the quite strict and limited intent of sacred object that Congress identified in the statute.

Mr. Roy Weaver, Superintendent of Bandelier National Monument, stated that while he respects the difficult position of the Pueblo of Cochiti, 22 affiliated Indian tribes have an interest in the collection at Bandelier. His concern is the other Indian tribes could return subsequent to this situation and request repatriation of items that they previously were unable to determine if they were used as sacred objects.

Review Committee Discussion: Mr. Hart thanked Governor Suina for his focused and succinct presentation and commented that for an Indian tribe to walk away from objects needed in traditional ceremonies due to confidentiality issues was remarkable and also very tragic. Mr. Minthorn stated that each Indian tribe has their own way of life with different ideas of what is sacred and varying degrees of sacredness. The NPS is determining what is sacred, and they have a broad interpretation, which does not consider specific Indian tribe's interpretations of sacred. The NPS needs to be aware of and consider each way of life. Governor Suina's discussion of what is sacred and the unwritten laws of the Pueblo of Cochiti needs to be considered. This issue will come before the Review Committee again, and the Review Committee needs to clarify for the NPS what is sacred and how sacred can be interpreted.

Ms. Naranjo stated that as a Pueblo person she understood what Pueblo people should know. She stated the traditional leaders who have looked at the objects know what is sacred and have passed on that knowledge to the NPS. The NPS needs to know and respect that these objects have meaning. Mr. McManamon emphasized that the NPS is not trying to be disrespectful and understands the position of the Cochiti people, but the definition of sacred objects in the law is very restricted. The Review Committee has discussed in the past that sacred can and does have a broad meaning in some religious contexts, both to Native American people and to other religious people, but the statute was more narrowly framed than that. He added that this is one of the dilemmas that the Review Committee has regularly faced and will continue to face in terms of how to administer the statute.

Mr. Sullivan suggested if the NPS is concerned about setting precedent for projectile point collections as sacred items, perhaps they can consider the precedent of the Pueblo of Cochiti and their spiritual leaders valuing their private information and cultural ways so strongly that they would relinquish their claim on the objects. Mr. O'Shea stated he understood the NPS problem as a governmental agency obliged to follow the law and suggested a case-by-case interpretation of this type of issue might be a viable solution, rather than trying to use these issues as precedent setting. Mr. Bradley commented that the law is very strict in the definition of sacred objects. The law is also very clear in that traditional religious leaders within the community are the authority on that subject, and on the basis of no other evidence suggested that's enough evidence to say that should be seriously considered.

The Review Committee members recommended that the 53 sacred objects requested by the Pueblo of Cochiti be repatriated.

#### Rio Grande Foundation

Mr. Kurt Anschuetz, Program Director for the Rio Grande Foundation for Communities and Cultural Landscapes in Santa Fe, New Mexico, explained that his remarks are also on behalf of Ms. Cherie Scheick, the Foundation's president. He expressed appreciation for the opportunity to address the Review Committee regarding two issues. The first issue is the belief that existing legislation recognizing Native Americans' rights to repatriation and reburial establishes a precedent that society's recognition of the specialness of places containing ancestral Native American graves transcends the question of public versus private land ownership. The second issue is concern about the lack of recognition of Native American grave sites as special places due to their nonconformity to the predominate Judeo-Christian definition of the physical context and structures of cemeteries. Such sites located on private lands are often disturbed out of greed or spite. He suggested that society needs to shoulder the responsibility of reminding landowners that willful destruction of graves on private property represents a significant violation of society's rights.

#### Fallon Paiute Shoshone and Pyramid Lake Paiute

Mr. Dean Barlese, Pyramid Lake Paiute Tribe, stated that he has learned from oral history that people were created from Mother Earth from the dirt and given life by the Creator and upon death are returned to the Mother Earth. He stated that repatriation is difficult to talk about and is dealt with slowly in his Indian tribe so people do not get hurt. He believes in prayer and the teachings of the old people. Having their ancestors removed from their graves has harmed his people, causing sickness and loss.

Mr. Alvin Moyle, chairman, Fallon Paiute Shoshone Tribe, explained that in October 1996 his Indian tribe was notified the BLM had in its possession the Spirit Cave Man, which was taken from Spirit Cave in 1940. Spirit Cave is located within three miles of their present-day reservation, well within the boundaries of the territory of the Paiute Shoshone Tribe. Based upon written reports, the BLM conducted studies before notifying the Indian tribe of the existence of Spirit Cave Man, however the type of studies is unknown. The Indian tribe filed claim for Spirit Cave Man on May 22, 1998 and received notification from the BLM four months later that the Indian tribe would have to prove cultural affiliation to Spirit Cave Man and other human remains found at the same time. He described actions by the BLM that show lack of recognition of Native American beliefs, traditions, customs and Native American people's respect for their elders. Mr. Moyle states his Indian tribe will be proceeding with the claim for Spirit Cave Man and hoped the Review Committee would assist in their claim.

Mr. Maurice Eben, Pyramid Lake Paiute Tribe and Chairman of the National Congress of American Indians Repatriation and Burial Site Protection Commission, stated the BLM was on an active course of changing the history of Indian people.

The BLM classifies any human remains or funerary objects from the Great Basin that are older than 600 years as culturally unidentifiable. Tribal history is documented in the Great Basin as far back as 9,000 to 33,000 years. The BLM does not fulfill their responsibility to consult, has conducted studies on Spirit Cave Man since 1990, and claimed at the Washington DC meeting in January 1998 that an additional 20 years is needed to comply with NAGPRA. Mr. Eben gave a specific example of a site identified for the public which was subsequently destroyed, after specific tribal requests not to publicly identify the site. Mr. Eben stated that such actions by the BLM need to stop. Mr. Eben supports moving the responsibility of implementation of NAGPRA from the NPS, as outlined in Hawaiian Resolution 98-002, to the Office of Policy Management and Budget in order to eliminate conflict of interest.

**Review Committee Discussion** The Review Committee members apologized for the short time period available for this presentation and for the group being placed in the section of the meeting reserved for discussing implementation of the statute in the Southwest instead of the section reserved for culturally unidentifiable human remains. Mr. Virgil Swift gave his presentation time to the Paiute Tribes. The Review Committee members suggested scheduling this situation at a later meeting for further discussion. The Review Committee members asked the NPS staff to send a letter to the BLM stating that serious concerns have been raised regarding this situation, urging the BLM to make an expeditious determination regarding the human remains, and asking the BLM to provide a record of their consultation history with the Indian tribes. Mr. Hart and Mr. Minthorn expressed concern regarding the BLM's actions, specifically the lack of consultation with Indian tribes and not following the law. Mr. Minthorn recommended that Federal agencies make an updated report on NAGPRA compliance to the Review Committee.

David Brugge

Mr. David Brugge, retired from the NPS, presented DNA evidence showing similarities between Indian tribes in the same geographic locations, such as the Navajo and Pueblo people.

Pueblo of Jemez

Mr. Benny Shendoah, Lt. Governor of the Pueblo of Jemez, welcomed the Review Committee members to New Mexico and introduced Mr. Whatley. Mr. Shendoah expressed appreciation to the following organizations for their cooperation and the utmost respect given to their traditional leaders during repatriation efforts; the Robert S. Peabody Museum at Phillips Academy, the Peabody Museum at Harvard, the Maxwell Museum at UNM, the Museum of Indian Arts and Culture, and the Pecos National Historical Park. He acknowledged the cooperation of the Kiowa Nation, Comanche Nation, Jicarilla Apache Nation, Apache Tribe of Oklahoma, Pueblo of Cochiti, Hopi Nation, Navajo Nation, Pueblo of Zuni, Wichita Nation, Santa Clara Pueblo, Pueblo of San Ildefonso and Pueblo of Santo Domingo.

Mr. William Whatley, Preservation Officer and Director of the Department of Resources for the Pueblo of Jemez, described the extremely positive repatriation efforts undertaken by the Pueblo of Jemez encompassing over 2,000 Native American human remains, 1,800 associated grave objects and 550 unassociated objects recovered from the Pueblo of Pecos. In 1836, the population of Pecos Pueblo left their home in response to Spanish depredations and relocated to Jemez Pueblo. In 1936, the US Government passed an act that formally merged the

Pueblo of Pecos into the Pueblo of Jemez. Within that act, all rights to property, titles, interests and claims on behalf of the Pecos people were vested in the tribal administration of the Pueblo of Jemez. In 1991, the traditional leaders initiated a search for their missing ancestors.

In 1996, an intertribal consultation meeting was hosted at the Pueblo of Jemez where preliminary information regarding the status of the missing ancestors was provided. A proposal by the Pueblo of Jemez was presented to seek the repatriation and eventual reinterment of all ancestors from Pecos National Monument without regard to racial discrimination or segregation. A general consensus was reached by all Indian tribes. Mr. Whatley stated that the NAGPRA negotiations proceeded flawlessly with no opposition or obstacles by any Federal agencies; the highest degree of respect was provided to traditional and secular leaders, tribal council and governors. Every notice submitted was published in the Federal Register, with the exception of the NPS notice submitted in May 1998. The Pueblo of Jemez hopes to see the NPS notice published in the near future. Once the notice process is complete, tribal consultation will occur to set the time and the place for the repatriation.

#### Wichita Tribe

Mr. Virgil Swift, Wichita Tribe, stated he brought greetings from the Wichita Tribe of Oklahoma and thanked the Hopi Tribe for allowing him to come to their land.

Mr. Timothy Baugh, Wichita Tribal Archaeologist, explained the Wichita and Affiliated Tribes were involved in repatriation activities before the passage of NAGPRA. Tribal beliefs include reburial of human remains in areas as close to the original grave as possible; however, that presents a number of problems, including lack of protection of the human remains. Therefore, the Wichita Tribe wishes to establish a cemetery at their administrative complex outside of Anadarko, Oklahoma. Another area of concern is academic reports used to determine cultural affiliation with sites being accepted as evidence by the NPS without peer review. This process led to the initial exclusion of the Wichita Tribe as a culturally affiliated Indian tribe with the human remains from the Pueblo of Pecos. The Wichita Tribe has presented multiple lines of evidence of Wichita presence at Pecos but continue to be informed that more evidence is needed. Mr. Baugh expressed concern with the Review Committee composition when museum directors with potential conflicts of interest are allowed to sit on the committee, even though such members may disqualify themselves from such discussions.

#### Consideration of Issues Related to Confidentiality

Mr. Jerry Rogers, NPS, stated that the NPS has a very wide range of interactions with Native Americans in the course of administering NAGPRA and the National Historic Preservation Act, participating in the development of tribal cultural heritage programs, and in the creation of the Keepers of the Treasures organizations. These responsibilities have resulted in the NPS being privy to information necessary to determine cultural affiliation, lineal descent, and the classification of objects as funerary objects, sacred objects and objects of cultural patrimony; information that sometimes runs to the very heart of what it means to be a tribal member. The NPS tries to understand and respect restricted information while dealing at the same time with the requirements of the US Constitution to treat everyone equally by conducting business in the open and

having a sound basis on record for any decisions. Laws like the Freedom of Information Act (FOIA) are difficult to deal with under circumstances such as NAGPRA, but they do protect all people and actually help assure Native Americans that Federal agencies are operating in the open. Several issues arise when decisions are based on sensitive or confidential material; how to collect the information in a way that does not put it at risk, how to retain the information, and how to live up to the desired level of confidentiality.

Certain sections of Federal laws offer limited opportunity for protection of confidential information. One section of the National Historic Preservation Act 1992 amendments authorizes a Federal agency to withhold information when the agency believes that releasing the information would place a historic, sacred or archaeological site at risk. The National Parks Omnibus Act of 1998, section 207, gives authority to withhold information on the nature and location of objects of cultural patrimony in National Park system units. Mr. Rogers stated that a complete answer to this question is not possible due to the nature of the republic of the US, but a better situation regarding the issue of confidentiality should be possible.

Mr. Peter Pino, Tribal Administrator for the Pueblo of Zia, explained that the population of Zia has increased from 97 tribal members in 1890 to 870 people at the present time. He stated that the Pueblo never recruited people to become part of their religion and never volunteered any information about the burial rights of their people. The passage of NAGPRA and other Federal laws forced the Pueblo to share information. He explained that people from the mainstream exploit tribal knowledge and information for their own gain and gave examples. Mr. Pino thanked the Review Committee members for their efforts regarding repatriation and for coming to New Mexico.

Review Committee Discussion: Mr. Bradley thanked Mr. Rogers and Mr. Pino for their presentations and encouraged Mr. Rogers to continue looking in the Federal statutes for sections that help protect confidentiality. Mr. McManamon explained that the protections in the National Historic Preservation Act and the Archaeological Resources Protection Act refer to locations and information about the locations. If objects can be associated with a place either recognized as an archaeological resource or historic property, then the confidentiality might be more easily assured. Mr. Hart stated the summer issue of Common Ground contained articles regarding protection of information and the subject of intellectual property. Mr. Minthorn stated that the issue of confidentiality reinforces the need for Federal agencies to keep the Review Committee members appraised of their level of compliance with NAGPRA and reinforces the responsibility of Federal agencies to protect sites in their jurisdictions, including protection of human remains and sacred objects.

#### Federal Compliance with the Statute

##### Bureau of Reclamation

Ms. Myra Giesen, Bureau of Reclamation (Reclamation), explained that the Bureau of Reclamation has lands in 17 western states and provided a map to the Review Committee members and audience members outlining those lands. Ms. Giesen also provided a contact list of Reclamation NAGPRA personnel. She stated that NAGPRA responsibilities within the Bureau of Reclamation are decentralized; however, in order to promote coordination of NAGPRA efforts, the Commissioner's Office developed a part-time position to deal exclusively with NAGPRA-related issues, which Ms. Giesen currently holds. Efforts are being made to educate Reclamation

personnel directly involved with NAGPRA, with two informational meetings held within the last year. In addition, information regarding Reclamation's activity concerning NAGPRA will soon be available on the Bureau of Reclamation Website. Summaries and inventories have been submitted to the NPS, and Reclamation is currently addressing areas identified as being incomplete by the NPS. Efforts are being made to better coordinate tribal consultation within the Bureau of Reclamation.

One area of concern is double reporting of collections on both museum and Federal agency inventories. Ms. Giesen urged careful evaluation of inventories with that in mind. The Bureau of Reclamation had two inadvertent discoveries in the past year and worked within the NAGPRA process toward repatriation. Reclamation is working to develop comprehensive agreements with Indian tribes where inadvertent discoveries are likely to occur, and would appreciate working models of agreements currently available from Indian tribes or other organizations.

Mr. Bradley appreciated hearing from a Federal agency that is making a good faith effort to comply with NAGPRA. Mr. Minthorn asked about the development of protocol for tribal consultation, as described at the Washington DC meeting. Ms. Giesen replied that the guidance protocol is available on their Internet Website. Mr. Minthorn asked what the time frame would be for completing the inventories. Ms. Giesen replied that she needed to evaluate the responses from the affected regions but hoped the inventories could be completed within a year. She added that budget issues were a concern, as discussed previously during the meeting.

#### Bureau of Land Management

Mr. Steve Fosberg, New Mexico BLM, stated he was going to give the Review Committee members a status report of local BLM efforts in terms of NAGPRA compliance. Inventories for NAGPRA materials were completed, starting inside the state and working outward. In 1992 and 1997, the New Mexico BLM mailed maps to all Indian tribes with ties to New Mexico, on which the location of sites containing NAGPRA materials were plotted. Through codes affixed to the maps, Indian tribes were able to request detailed documentation concerning particular areas or sites. The New Mexico BLM has located roughly 230 sets of human remains, 70 sets of associated funerary objects and 40 sets of unassociated funerary objects in various repositories throughout the US.

While the BLM inventory is essentially complete, materials occasionally come into the control of the BLM and need to be added, for example through seizure of pot hunters' collections. The BLM has funded an annual NAGPRA update report with the Museum of New Mexico to compile information on such materials. To date, the BLM has not repatriated any human remains from the museum; however, the BLM received inquiries regarding repatriation and is discussing the situation with both the Hopi and Navajo.

In response to a question from Mr. O'Shea, Mr. Fosberg explained that inadvertent discoveries were handled at the field office level, through consultation with local Indian tribes. Ms. Naranjo asked about the status of future applicability regulations and a time frame for their completion. Mr. McManamon replied that the future applicability regulations were drafted and are circulating within the DOI for publication as proposed rules, and he stated that the NPS could try to get the regulations published before the next Review Committee meeting. Mr. Minthorn stated that while he felt BLM as a whole is not in compliance with NAGPRA, Mr. Fosberg's presentation was a good indication that

the New Mexico BLM is making very good efforts to comply with NAGPRA and work with the Indian tribes. Mr. Minthorn emphasized the need for Federal agencies to give an update report to the Review Committee and for the Review Committee to monitor the Federal agencies, as well as the museums and universities.

#### National Forest Service

Mr. Frank Wozniak, NAGPRA Coordinator for the Southwestern Region of the United States Forest Service (USFS), stated he was going to provide the Review Committee members with a summary regarding NAGPRA compliance by the Southwestern Region of the USFS. NAGPRA is handled at the regional level of the USFS, which has nine regions. Summaries from the 11 national forests in the Southwest Region were provided to the NPS and 53 Indian tribes in 1993; inventories were completed in 1995. Collections from the Southwest Region include more than 5,000 human remains and more than 15,000 associated funerary objects, and are located in institutions nationwide.

Site-by-site abstracts of the inventory were compiled, since the inventory covered approximately 50,000 pages of information. The abstracts and draft Notices of Inventory Completion were sent to 51 Indian tribes and the NPS in March and April of 1996. In May 1996, a listing of culturally unidentifiable human remains was completed and submitted to the Review Committee. The Southwest Region of the USFS has repatriated more than 150 sacred objects and objects of cultural patrimony and 800 sets of human remains and associated funerary objects to Indian tribes in Arizona and New Mexico. All forests within the Southwest Region of the USFS have continued to consult with interested Indian tribes on heritage resource (cultural resource) issues.

In response to a question by Mr. Hart regarding culturally unidentifiable human remains, Mr. Wozniak explained that of the more than 400 sets, most come from southern New Mexico. Mr. Minthorn asked if USFS field offices have consultation guidelines. Mr. Wozniak explained that the USFS issued a very broad document at a national level regarding consultations, but there are no specific guidelines. He added that is a matter that will be addressed within the USFS by an appointed group of officers within various regional offices. Mr. Minthorn asked if Mr. Wozniak could further investigate the issue and report his findings to the Review Committee.

Mr. Wozniak also described a USFS course on NAGPRA implementation that is offered nationwide. He stated that no repatriations have occurred to date within the Southwest Region of the USFS; however, the USFS received one request regarding 1,200 human remains at Tonto National Forest from the Hopi Tribe and the Salt River Pima Maricopa Tribe and are now awaiting action on the part of these Indian tribes and other culturally affiliated Indian tribes to initiate the repatriation process. Mr. Wozniak explained that the USFS has always encouraged Indian tribes working together, especially due to the reality of archaeological cultures in the Southwest where a number of Indian tribes have the potential for cultural affiliation with a wide variety of human remains.

#### Discussion of Federal Agency Compliance Report Draft

Mr. McManamon explained that at the Review Committee members' request the NPS drafted the Federal Agency Compliance Report based upon presentations made by Federal agencies to the Review Committee at the January 1998 meeting in Washington DC, as well as points of discussion by the Review Committee members at that time. He stated the report might be useful in the Review Committee's

next Report to Congress, and suggested first sending the report to Federal agencies for updates on their NAGPRA compliance status. He suggested that the Review Committee members might consider returning to Washington DC in order for Federal agencies to give updates to the Review Committee. Mr. Sullivan added that the Review Committee has never met with Secretary Babbitt and suggested seeing if the Secretary could find time to address some of these urgent issue, specifically the compliance of entities within the DOI.

#### Proclamation

Ms. Naranjo announced that Mr. Gary E. Johnson, Governor of the State of New Mexico, proclaimed December 10, 1998 as American Indian Ancestors Day and called for a moment of silence in honor and tribute to Native American ancestors who have been exhumed throughout this country.

#### Consideration of a Situation Between the Central Sierra Me-Wuk and the Hearst Museum

Ms. Reba Fuller, NAGPRA Project Director for the Central Sierra Me-Wuk Cultural and Historic Preservation Committee, explained that as presented at the Review Committee's Portland, Oregon meeting in June 1998, the Central Sierra Me-Wuk has two ongoing concerns regarding the University of California at Berkeley (UCB); one, UCB has consistently and purposely evaded responsibility with NAGPRA, and two, actions preventing representation of California Indians' interests at a recent the UCB Academic Senate hearing reflect a prejudice toward California Indians. As described in a May 18, 1998 letter from the Central Sierra Me-Wuk to the Secretary of the Interior, the Central Sierra Me-Wuk are also concerned about the recent request by the UCB Phoebe Hearst Museum of Anthropology for another extension to complete their inventory, and respectfully asked the Secretary of the Interior to deny the request and invoke civil penalties.

The Central Sierra Me-Wuk Committee requested that the NAGPRA Review Committee address the following concerns: Why the UCB Administration does not take NAGPRA compliance seriously; why the UCB Administration does not allocate sufficient resources to facilitate compliance; why the UCB Administration has failed to implement NAGPRA policies and a campus review committee; and why the UCB Administration has failed to resolve interdepartmental issues that have and will continue to impede compliance with NAGPRA.

Ms. Dorothea Theodoratus, consultant to the Central Sierra Me-Wuk Committee, explained that she worked with the Central Sierra Me-Wuk on their repatriation grant with the UCB. Since the UCB does not have a complete NAGPRA inventory, the Indian tribes have actually been working on the UCB inventory. She explained that the UCB does not have a forum for tribal complaints or issues; the UCB has engaged in degrading dialogue with and concerning Indian tribes; and the UCB has supported a single professor, Mr. Tim White, who has claimed possession of human remains which he will not release to the main museum. Additionally, the UCB Administration does not support the Phoebe Hearst Museum in fulfilling its NAGPRA obligations.

Ms. Pauline Girvin Y Montoya, Project Director of an intertribal consortium of Northern California peoples of Mendocino County, California, explained that she was sent by the elders council of the consortium to support Ms. Fuller in her contentions regarding the UCB. She submitted a memorandum requesting to intervene as a party in real interest at a hearing of the Privilege and Tenure



Committee on the matter of Mr. White, but was not afforded an opportunity to address the panel. To date, no response has been made by the UCB to the request to intervene. The consortium entered into a consultation grant with the UCB to determine cultural affiliation of human remains; however, the bulk of the grant money and effort has been to work on the uncompleted UCB inventory. The consortium feels that the extension request of the UCB is not a good faith request, and insufficient funds have been allocated to the museum staff to complete the inventory process. She expressed concern that she was informed the previous night about additional Mendocino excavations, information previously not provided in the consultative process.

Mr. Edward M. Luby, Associate Archaeological Specialist and NAGPRA Coordinator at the Phoebe Hearst Museum of Anthropology, UCB, thanked the Review Committee for addressing the situation between the Phoebe Hearst Museum and the Central Sierra Me-Wuk Cultural and Historic Preservation Committee. In the fall of 1996, the museum in partnership with the Central Sierra Me-Wuk began a NPS funded project, whose purpose was to review museum documentation and archaeological collections in order to make determinations concerning the status of human remains held by the museum. The project was significant for two reasons; one, three of the leading researchers in California archaeology and ethnography, including Dr. Theodoratus, agreed to participate in the project, and two, the grant was designed as a Native American internship program, a position eventually filled by Ms. Fuller. The internship provided an opportunity for Ms. Fuller to be trained in museum practices and standards and the museum staff to be trained in culturally appropriate collections care and consultation techniques. The project ended September 30, 1998, and although not all goals were reached due to the greater than anticipated amount of work, the parties agreed to continue to work actively together.

Planned inventories of human remains and associated funerary objects were not produced for two reasons; first, the Central Sierra Me-Wuk indicated they did not want the museum to make recommendations regarding cultural affiliation and indicated that a scientific study of collections from Sierra Me-Wuk associated sites should take place, and second, the consultants did not make recommendations concerning cultural affiliation. Several weeks into the project, Ms. Fuller learned that human remains controlled by the museum were on loan and requested that they be returned. All human remains used for teaching were recalled shortly thereafter; however, Professor White did not comply. The UCB Office of the Vice Chancellor for Research supported the museum's case and brokered a sharing arrangement wherein the human remains would be available in the weekday mornings for museum staff and weekday afternoons for Professor White.

Ms. Linda Fabbri, Assistant Vice Chancellor for Research at the UCB, reported that the Phoebe Hearst Museum reports directly to the Vice Chancellor for Research, who in turn reports to the Chancellor. After Professor White refused to comply with the request to return the human remains, a demand was made for the materials. Professor White then turned to the academic senate to have the matter reviewed by the Senate Committee on Privilege and Tenure. A list of possible witnesses for the hearing was provided, but the hearing has not taken place regarding Professor White's grievance. The meeting discussed by Ms. Montoya was a prehearing wherein the parties agreed that the matter was of sufficient importance to warrant a full hearing. A committee is currently being formed to advise the administration on NAGPRA issues and will be comprised of faculty members, senate members and outside representation. Nominations are with the Chancellor, and the committee should be in place by the end of January

1999. Ms. Fabbri added that in the UCB request for inventory extension, additional funds were provided to help the museum staff.

Review Committee Discussion: After hearing the presentations regarding this issue, the Review Committee members discussed the following concerns: Ms. Metcalf expressed concern that Mr. White was viewing academic freedom and the academic senate process as greater than NAGPRA and added that she would not support another extension to the UCB. Mr. O'Shea reviewed the academic senate process with Ms. Fabbri and asked for the parties' response to the claim that some of the human remains in question are not Native American. Ms. Fuller stated that was a statement made by Professor White. Mr. Luby replied that although some human remains are known to be non-Native American, the overwhelming majority are Native American with documented proveniences from well-known archaeological sites. Mr. Luby clarified that a physical inventory exists of the more than 100 catalogue records of human remains under discussion, but it is not an inventory as described in NAGPRA. Mr. Minthorn requested that the Review Committee members closely monitor this issue and added that good faith tribal consultation continues to be of utmost importance. Mr. Bradley questioned the parties regarding access to the human remains and to what degree the museum has control over the human remains. Mr. Luby explained that any person associated with an Indian tribe who wants to enter the room for cultural care of the human remains would be encouraged and permitted to go into the room during the museum's allotted weekday morning time slots. He stated that museum staff periodically check to make sure all human remains are still in the room. Ms. Fuller and Ms. Montoya confirmed that they have access during those times, but added there is no process to ensure that Professor White is not in the room more than his allotted time. Mr. McManamon asked the parties about the repercussions of denial of the extension request. Ms. Fuller replied that throughout this situation the UCB has not acted in good faith. She hoped that the extension request would be denied and civil penalties would be assessed. Mr. Luby responded that a denial of extension would be devastating to the museum and might have negative effects on NAGPRA inventory work at the UCB.

The Review Committee members agreed to include the following in a letter from the Review Committee members to the UCB Administration. Mr. Bradley stated that the goal was a speedy resolution of the issue and expressed concern that denying an extension request and assessing civil penalties might impede the process. Mr. Bradley agreed with Mr. Minthorn's suggestion for approval of the extension request only with strict provisions and added that the process will be closely scrutinized, with the UCB on the brink of civil penalties. Mr. Hart stated that a professor's right to due process within any university must not be allowed to circumvent the law. Mr. Sullivan suggested stating the Review Committee members are profoundly distressed at the inadequate progress of the UCB in its inventory completion, given that one extension has been granted and three NAGPRA grants funded to assist in the process.

#### Public Statement - James Bradley

Mr. Bradley publicly explained a statement he made regarding Mr. John Brown of the Narragansett Tribe and apologized for any offense or disruption the statement may have caused to Mr. Brown, the Narragansett Tribe, the other Review Committee members and the audience.

#### Upcoming Meetings

After discussion, the Review Committee members tentatively set the next meeting for April or May 1999 in Little Rock, Arkansas. The Review Committee members emphasized the need to discuss Federal agency compliance and culturally unidentifiable human remains issues at upcoming meetings.

#### Review of Minutes of Portland, Oregon Meeting

The Review Committee members agreed unanimously to approve the minutes of the Portland, Oregon meeting on June 25, 26 and 27, 1998 with minor typographical changes.

#### Public Comment

Mr. John Brown, Tribal Historic Preservation Officer and NAGPRA Representative for the Narragansett Tribe, stated that the Narragansett Tribe has had an issue with Harvard Museum for a number of years regarding repatriation of human remains and materials from the Barrington, Johnston and Tiverton, Rhode Island areas. Harvard questions the standing of the Indian tribe and the fact that the Indian tribe inhabited the state of Rhode Island. The Indian tribe gave Harvard the oral history of the Indian tribe and written proof in the form of the Federal recognition notification issued by the Assistant Secretary for the BIA published February 2, 1983. The Indian tribe is reluctant to provide any further written history as it is often erroneous, especially writings by Mr. Frank G. Speck, who was escorted from Rhode Island by Mr. Brown's grandfather and great-grandfather. Mr. Brown then made a statement on behalf of Mr. Bill Day that the United South and Eastern Tribes support the concerns raised in the November 25, 1998 letter from the Hawaiian organization regarding Mr. McManamon. Mr. Brown also asked that the Review Committee consider the issue raised in a letter Mr. Brown presented to the Chair on the first day of the meeting.

Ms. Trish Capone, Peabody Museum of Archaeology and Ethnology, Harvard University, stated that NAGPRA requires museums and Federal agencies to use all types of readily available evidence listed in the regulations, including oral tradition, to make cultural affiliation determinations, which the Peabody Museum has been trying to do. She clarified that the funerary objects from Johnston, Rhode Island, mentioned previously by Mr. Brown, were determined to be culturally affiliated with three groups, the Narragansett, the Wampanoag Confederation and the Nipmuc Tribe. She encouraged people to refocus frustration with the cultural affiliation process on trying to make that process better and not on diminishing relations with museums.

Mr. Robert Gough & Ms. Amanda Burt: Mr. Gough, attorney for the Rosebud Sioux Tribe NAGPRA Committee and the Estate of Crazy Horse, explained that he was before the Review Committee with Ms. Burt in order to address a matter of great concern with regard to the compliance of institutions with requirements both in the spirit and the letter of NAGPRA. The matter involves Washington College of Chestertown, Maryland and a collection of Indian artifacts held by the college for 65 years, recently sold at auction at Sotheby's in New York.

Ms. Burt explained that Washington College is a private liberal arts institution with approximately 1,000 students. She stated that the college possessed a fairly modest collection of Native American artifacts, most notably of which included a shirt attributed to Crazy Horse and a double-train eagle feather bonnet attributed to Chief Red Cloud. These artifacts were housed in glass trophy cases in the college library. In 1992, visiting Cheyenne poet Lance

Henson discovered the collection in the library and raised concerns about the proper disposition of the artifacts. Ms. Burt wrote an article for the student newspaper at the time and since that point has been working with the estate of Crazy Horse and the Rosebud Sioux Tribe to obtain further information in the matter. In 1996 the entire collection, with the exception of the bonnet, was sold at Sotheby's. The shirt which appraised for \$60,000 to \$90,000 was sold at auction for over \$200,000.

Mr. Gough detailed communications with the college wherein the college determined based upon private expert opinion that it did not fall within the purview of NAGPRA and therefore did not have to file summaries or inventories. The parties represented by Mr. Gough allege that Washington College is an institution of higher learning, received federal funds after November 16, 1990, and have exerted control over the Albee collection, which may contain unassociated funerary objects, sacred objects, and objects of cultural patrimony. Washington College has failed to comply with the timely filing of either a summary or inventory as required under NAGPRA. The parties further allege that the college's failure to comply with NAGPRA has resulted in the sale of the collection without proper notice to the Indian tribes or the estate and that said sale materially damaged the Indian tribes and the estate through the loss of any opportunity for tribal examination, investigation, research, or potential repatriation. He stated that a matter of particular concern is the critical need for action by the NPS in enforcing the provisions of NAGPRA, particularly the civil provisions in this case. The parties are demanding that the Secretary of the NPS make a determination of noncompliance and assess appropriate civil penalties pursuant to 45 CFR section 10.12 against Washington College for its failure to complete the required summary and inventory.

Over the past 60 years Washington College has had these items in its possession including the scalp shirt which it publicly declared it believed to have been owned and worn by Crazy Horse and the feather bonnet purported to have belonged to Chief Red Cloud, along with numerous other items donated by the Albee estate. Mr. Gough informed the Chairman of the College Legal Affairs Committee that he represented the estate and the Indian tribe and was seeking information regarding the shirt. He advised the Chairman that the items may be subject to NAGPRA and provided him with a copy of NAGPRA with the appropriate sections highlighted. A request to view the shirt and materials at that time was denied on the grounds that materials were being appraised and undergoing conservation activities. Mr. Gough was not informed of plans to sell the collection until after the sale had taken place. The parties are seeking the Review Committee's assistance in ensuring action by the NPS, enforcing the provisions of NAGPRA and for a determination with regard to the noncompliance of Washington College, including an assessment of the appropriate civil penalties against Washington College for its failure to complete summary and/or inventories as required and for its sale of the collection shortly thereafter.

Review Committee members expressed concern about the situation and asked the NPS to respond. Mr. McManamon explained that the NPS has initiated an investigation. He agreed that the information provided by Mr. Gough warranted an investigation into the matter. As per procedure, the first action of the NPS was to write to the college, present them with the information, and ask the college to evaluate the information and provide a written response. He stated the college has responded to the allegations, but the NPS needs to evaluate that response, which basically states that the college does not think the law applies in this particular case. The NPS has been attempting to get information about the criminal investigation that was undertaken and that has been mentioned in some of the correspondence.

Mr. Sullivan expressed concern that the Review Committee worked with the NPS staff in developing language stating institutions should provide summaries of all holdings and not determine what objects are sacred or are objects of cultural patrimony. Mr. Sullivan asked the NPS if Washington College received that letter. Mr. McManamon stated that they would find out. Mr. McKeown explained that the mailing list for the letter was a compilation of all Departments of Anthropology in the AAA Guide plus all museums listed in the American Association of Museums listing. Mr. Gough explained that the college was aware in 1992 of the NAGPRA law, which was documented in letters to the NPS.

Mr. David Grignon, Menomonee Tribe of Wisconsin and Chairman of the Wisconsin Intertribal Repatriation Committee, explained that the committee is a coalition of 11 Indian tribes and bands located in Wisconsin, including the Menomonee Tribe, Ho-Chunk Nation, Forest County Potawatomi, Oneida Nation of Wisconsin, Stockbridge-Munsee, Sac and Fox Nation, and the following Lake Superior bands of Chippewa; Bad River, Red Cliff, Lac Courte Oreilles, St. Croix, Lac Du Flambeau, and Mole Lake. The mission of the committee is the repatriation and reinterment of Native American human remains now held in museums and other organizations, and specifically that human remains originating from within the exterior boundaries of the state of Wisconsin be reburied in a centrally located cemetery in Wisconsin. The committee strongly believes that final decisions regarding the disposition of Native American human remains from anywhere in the United States and associated funerary objects should rest solely in the hands of Native Americans. No further scientific analysis should be performed on any Native American human remains now being held in museums or other institutions, and any documentation of analysis should be turned over to the Indian tribes. The committee believes that culturally unidentifiable human remains should be turned over to regional tribal coalitions, such as the Wisconsin Intertribal Repatriation Committee, for repatriation. Mr. Grignon suggested a list of museums that receive Federal monies should be developed, the Review Committee meeting agenda should be developed far in advance to avoid scheduling errors, and the 30-day response time for claims mandated by NAGPRA should be reevaluated.

Mr. Clay Hamilton, Hopi Cultural Preservation Office, read a letter from the Hopi Tribe to the NAGPRA Review Committee into the record, wherein the Hopi Tribe requested that the Review Committee members seriously evaluate and make findings regarding processes leading to the determination of cultural affiliation of human remains, specifically regarding human remains and funerary objects at Chaco Cultural National Historical Park, Aztec Ruins National Monument and other national park areas holding human remains and funerary objects determined to be culturally affiliated with the Hopi Tribe. He urged the Review Committee to seriously consider cultural affiliation determinations by Federal agencies, such as the NPS and the BLM, that are based upon political interests.

Mr. Ted Howard, Shoshone Paiute Tribe, stated that the Shoshone Paiute Tribe and neighboring Indian tribes in the Great Basin area disagree with the BLM directive which does not allow reburial of Native American human remains on Federal lands. They ask that the directive be withdrawn because Indian tribes support the return and reburial of ancestors and funerary objects to their original resting place. Mr. Howard questioned the process and authority of the panel of experts that will be examining the Kennewick Man remains. He expressed concern regarding the Native American consultation database, especially highlighting items of particular interest, due to confidentiality and safety issues regarding cultural items and sacred sites. He stated that Native

Americans need to define what is sacred, including the category of funerary objects. Mr. Howard concluded by saying his Indian tribe supports Hawaiian Resolution Number 98-002.

Ms. Barbara Isaac, Assistant Director of the Peabody Museum of Archaeology and Ethnology, explained the Peabody Museum has one of the largest NAGPRA-related collections in its care, with 2,458 human remains. Since 1995, the museum has consulted with over 200 Indian tribes in 31 states regarding repatriation activities and through grants have provided travel funds for almost 50 Indian tribes. She explained that consultations in most cases have been rewarding, informative and successful, but in some cases the staff has been threatened and insulted. She described a successful consultation process with the Haudenosaunee Tribes, resulting in the cultural affiliation of almost 250 individuals.

She stated that consultation is difficult when there are contested claims of cultural affiliation, as in the situation involving seven funerary objects from the area of Tiverton, Rhode Island, claimed by both the Wampanoag Confederation and the Narragansett Indian Tribe. After ten months of consultation and research, the Peabody staff found the funerary objects to be most likely affiliated with the Wampanoag Confederation. After publication, Mr. Brown made a counterclaim on behalf of the Narragansett. Ms. Isaac reported that the Peabody had problems interacting and consulting efficiently with Mr. Brown. The Peabody received oral information and were ultimately told by Mr. Brown that further information was not necessary since the Federal Recognition Notice of 1983 took precedence over any other forms of cultural affiliation. Ms. Isaac stated that the Peabody Museum is ready to repatriate the seven funerary objects but are unable to make a determination of cultural affiliation at the present time since each group has presented contradictory and exclusive evidence based on oral tradition. The museum needs a ruling on whether a Federal recognition notice overrides all other forms of evidence for cultural affiliation. Mr. McManamon stated that the NPS would provide an answer to that question, since it is essential in order for the Peabody Museum to move forward on this issue.

Peter Jemison, Haudenosaunee Standing Committee on Burial Rules and Regulations, stated the committee represents the Iroquois Nations, Seneca Nation of Indians, Tonawanda Band of Seneca, Cayuga Nation, Onondaga, Mohawk, and Tuscarora Nations, as well as six nations in Ontario. He stated that he was not before the Committee asking for a specific action or recommendation but was explaining their concern about the label of culturally unidentifiable human remains. Mr. Jemison explained that the Peabody Museum at Harvard has given the dates 900 AD and 950 AD as the years the Haudenosaunee may have come into existence. Similarly the Rochester Museum and Science Center of New York has stated that 950 AD is the year the Haudenosaunee came into existence. The Haudenosaunee reject the notion of "prehistoric" people, and through oral history, their history begins with the creation of Turtle Island and runs through the present time. The Haudenosaunee want to register a desire to see their ancestors' remains returned, any and all presently held by the Peabody Museum at Harvard and the Rochester Museum and Science Center. Mr. Minthorn emphasized that NAGPRA has been set down for Native Americans to get back what is important to them, and when an Indian tribe can substantiate their affiliation through oral histories, ethnohistories, song and dance, that's sufficient evidence. He added that agencies, museums, and universities need to be sensitized to an Indian tribe's cultural way of life or belief system and cannot assign dates of creation. Ms. Metcalf commented that NAGPRA was intended to protect Native Americans and should not be used as a means to document or redefine when Europeans arrived.

Mr. Jefferson Keel, Chickasaw Nation, stated that the Chickasaw Nation is engaged in ongoing deliberations and consultation with state officials in their indigenous homeland, which include Mississippi, Alabama, Tennessee, Georgia, Florida, Louisiana, Arkansas, and South Carolina. The Intertribal Counsel of the Five Civilized Tribes has been working on a policy statement which basically allows whichever Indian tribe that was predominant in a particular geographic location to become the lead Indian tribe in negotiations with that state. The Chickasaw Nation is involved in areas including Tennessee and Mississippi. Tennessee state law does not provide for consultation with Native American people, considers all graves equally, and does not address artifacts, burial goods or funeral objects that are defined in NAGPRA. Current state law mandates that when a cemetery is terminated by the courts any exhumed remains are to be reinterred and interested parties are to be consulted. However, since funerary objects and artifacts are not covered by the law they often remain in limbo until ownership is assigned by the state archeologist or the Federal Government. Members of the NAGPRA Committee of the Intertribal Counsel of the Five Civilized Tribes met with Tennessee State officials in October to discuss possible changes in state legislation regarding state burial laws and protection of Native American grave sites and artifacts. The council requested that Native Americans be given the same rights and consideration that a family would enjoy under the state cemetery law which allows families to visit the sites if they can prove ancestry. Amendments to legislation will be presented to the Tennessee State Legislature at their next session, and they have indicated that they will consider and probably will pass some of those laws. The council sent a letter to the Dr. McManamon's office requesting the NPS to facilitate a series of meetings with the state governments and state and local agencies in order to promote consultation with state officials which are now starting to take place.

Mr. Keith Kintigh, President-elect of the Society for American Archaeology (SAA) and Professor of Anthropology at Arizona State University, stated he was representing the SAA in his presentation. He described two areas Indian people and archaeologists can work together by trying to extend NAGPRA protection to private lands and trying to develop ways to coerce Federal agencies to comply with NAGPRA. NAGPRA was written to balance important tribal concerns about their ancestors with legitimate scientific and broader public interests. Because of this need for balance, NAGPRA directs everyone to seriously consider both traditional and scientific knowledge in making determinations of cultural affiliation. People making decisions regarding NAGPRA, including the Review Committee members, need to hear the most carefully articulated evidence drawn from both traditional and scientific world views.

Mr. Sebastian "Bronco" LeBeau, Tribal Cultural Historic Preservation Officer for the Cheyenne River Sioux Tribe, stated he was responsible for all repatriation and preservation activity for the Indian tribe, as well as establishing their tribal archives. He explained the Indian tribe has initiated three repatriation requests with three different museums seeking the return of cultural items and artifacts. The repatriation process was successfully completed for two of the institutions, the Harvard Museum in Massachusetts and the Heard Museum in Arizona. The final request with the Wyoming State Museum in Cheyenne, Wyoming proceeded with consultation, an agreement between the Wyoming State Museum and the Cheyenne River Sioux Tribe was reached to repatriate the items, and a Notice of Intent to Repatriate was submitted to the NPS. The notice was returned to the Wyoming State Museum by the NPS based upon a finding by the Departmental Consulting Archaeologist that battlefield collections might not have standing under NAGPRA. The Cheyenne River Sioux Tribe feels the NPS, whether intentional or not, tried to establish a presumption of authority that it could rule that an

Indian tribe had incorrectly identified or categorized an object held by a museum available for repatriation. The Indian tribe was also concerned that the NPS contacted the Wyoming State Museum and not the Indian tribe and that the NPS took an excessive amount of time to respond to memos from the Indian tribe. On November 30th, 1998, the NPS sent a memo to the Cheyenne River Sioux Tribe stating that the notice will be published. Mr. LeBeau explained that although the situation was resolved, he wanted to present the issue to the Review Committee.

In response, Mr. McManamon explained that all draft notices are reviewed in the NPS office to ensure objects being described fit the categories under NAGPRA and that the necessary steps have been taken to determine the appropriate cultural affiliation. This is to ensure the Act is not abused. After the notice was reviewed in the NPS office, it was felt that there was no need for the objects to be considered under NAGPRA because they did not fit any of the categories that NAGPRA covered. The NPS then contacted Mr. Robert Gant of the Wyoming Division of Cultural Resources regarding the finding and explained that the objects could be returned to the Indian tribe without going through the NAGPRA procedure. The Indian tribe was not contacted, as per standard procedure, since contacting all tribal groups regarding repatriation issues is not feasible. Mr. McManamon stated that upon receipt of the redraft, the NPS will publish the Notice of Intent to Repatriate.

Ms. Ramona Peters, Wampanoag Confederation, stated she was present to offer a tool to members of the Native American community actively involved in repatriation. She states that the Wampanoag people are particularly concerned about the repatriation process because the Wampanoag are first encounter people, the English having landed 20 miles from their village on the Mayflower. The Wampanoag Confederation has developed a number of methods and tools that are helpful in the repatriation process, which they would like to share with other Indian tribes. These include samples of communications with museums, the creation of maps designating territorial homelands, and a very elaborate database for information management. She explained that she would be presenting the information that evening to any interested people. Mr. Bradley thanked Ms. Peters for sharing the tools developed by the Wampanoag Confederacy and expressed the hope that other Indian tribes will be able to use these tools.

Ms. Donna Roberts, Abenaki, explained the Abenaki homeland consists of Vermont, New Hampshire, Western Maine, North Central Massachusetts, and Southern Quebec Province. She stated that while she represented a number of groups at the meeting, she works for her ancestors. The Wabenaki Confederacy (phonetic) is a group of five council fires, Penobscot, Passamaquoddy, Micmac (phonetic), Malecete (phonetic) and Abenaki, with the Abenaki being the only non-Federally recognized Indian group. She stated that some members of the scientific community are attempting to undermine and dismantle the NAGPRA process by using the terms culturally unassociated and culturally unidentifiable. She described two situations where sacred objects are still in the possession of institutions despite attempts by the Abenaki to repatriate the items. She stated that Indian tribes need to make decisions regarding what is sacred; traditional knowledge comes from the ancestors, not science.

Ms. Kathy Womer, Colville Confederated Tribes, explained that the Colville Confederated Tribes comprises 12 bands; the Palouse, Chief Joseph Band of Nez Perce, Nespelem, Colville, Moses Columbia, San Poil, Lakes, Wenapchee, Entiat, Methow, Chelan and Okanogan. The Colville Tribe is one of five tribal claimants for the Kennewick Man, who may be a descendent of the Palouse. She presented and read Resolution 1998-876 from the Colville Tribe, which described the Indian



tribes' position regarding Kennewick Man and their nationwide efforts regarding NAGPRA. Ms. Womer explained that in 1854, Chief Seattle of the Suquamish Tribe was documented as saying that human remains and final resting places of ancestors are sacred. Ms. Womer described the intense need for the intended work of NAGPRA to progress and stated the Colville Tribe is working on a nationwide effort to promote intertribal cooperation to support NAGPRA. Ms. Womer presented and read a statement from the Kumeyaay Cultural Repatriation Committee of San Diego County, California.

#### Intertribal Council of the Five Civilized Tribes

Mr. Alan Emarthle, Seminole Nation, Ms. Jeannie Barbour, Chickasaw Nation, and Mr. Terry Cole, Choctaw Nation of Oklahoma, were present on behalf of the Intertribal Council of the Five Civilized Tribes. Mr. Emarthle presented and read the NAGPRA policy statement developed and agreed to by the Indian tribes of the Intertribal Council of the Five Civilized Tribes. The council Indian tribes are the Cherokee Nation, the Chickasaw Nation, the Choctaw Nation of Oklahoma, the Muskogee Creek Nation and the Seminole Nation of Oklahoma, representing over 300,000 Native American people nationwide. Ms. Barbour added that the policy statement was designed in the hope that it would stimulate consultation with other Federally recognized Indian tribes. Mr. Hart commended Mr. Emarthle, Ms. Barbour, and Mr. Cole for sharing the policy document, and added his appreciation of the chairs of the five participating Indian tribes. He stated that the policy document was a model that ought to be followed. Mr. Bradley added his appreciation for this type of collaborative effort.

#### Sovereign Dineh Nation

Mr. Leonard Bennally, Sovereign Dineh Nation, described the continued destruction of Anasazi and Dineh burials on Black Mesa by the Peabody Western Coal Company despite repeated attempts by Dineh elders to protect the sites. He stated that the Sovereign Dineh Nation would like to repatriate burial and associated funerary items of ancient Anasazi and Dineh burials and are asking for protection of the burial sites.

Mr. David Brugge stated through his work in the 1950s and 1960s, he is aware that Black Mesa contains both recent and prehistoric burials. This issue falls between NAGPRA and ARPA, and he hoped that it was within the NAGPRA mandate.

Ms. Marsha Monestersky, Sovereign Dineh Nation, stated that this case is unique in that the rights of indigenous people to protections entitled under Federal law are being subverted by tribal governments funded by the mining revenues and created by the mining companies. Judge Raymond Child, DOI, found that the Navajo Nation shares nothing of the \$45 million annual royalty received from the mine with the members of the Navajo Nation who reside in the proximity of the mine and suffer from the effects of that same mining. He revoked the Peabody Western Coal Company's mining permit because of the numerous violations of the rights of the Dineh people, including the destruction of sacred burial sites. His decision was overturned upon appeal, in which the coal company was joined by both the Hopi and Navajo tribal governments. Ms. Monestersky asked the Review Committee members what kind of protection can be obtained for burial and sacred sites of the people of Black Mesa. Ms. Monestersky added that they have been in contact with the Historic Preservation Department for both the state of Arizona and the Navajo Nation, as well as the Office of Surface Mining, with no results.

The Review Committee members were deeply concerned about this issue and asked the NPS what action could be taken regarding these allegations. Mr. McManamon

replied that this situation falls on tribal land and tribal governments are sovereign on tribal land. He suggested that the Review Committee express its concern to the tribal government and send letters to the Secretary of the Interior and the Assistant Secretary for Indian Affairs. He stated that he did not believe the NPS could conduct an investigation into this matter. Ms. Mattix stated that she would do further research on the situation to see if it is an ARPA violation.

#### Piro/Manso/Tiwa Indian Tribe

Mr. Ed Roybal, cacique of the Piro/Manso/Tiwa Indian Tribe, stated that the Indian tribe is not Federally recognized but wants to be included in repatriation discussions concerning human remains and funerary objects taken from the areas of their ancestral home grounds. He stated that the Indian tribe has had discussions regarding ancestral remains from the areas of White Sands National Monument, Guadalupe and Carlsbad National Parks, Gila Cliff Dwellings, Fort Bliss, as well as other Federal agencies and the Air Force. Mr. Roybal explained that the Indian tribe is the direct descendants of the Piro, Tompiro, Humanos, Manso and Tiwa Indians of lower New Mexico. He provided the NPS with written documentation regarding their affiliation to the geographical area he described from Dr. Howard Campbell, professor of anthropology at the University of Texas at El Paso, Nick Hauser, anthropologist, Logan Slagel (phonetic), tribal attorney, Betsy Brandt, professor at Arizona State University, information from the Indian Health Service, and a statement from the San Diego Museum of Man. He stated that between 400 and 800 human remains have been excavated from their ancestral lands.

Mr. Victor Roybal, tribal elder of the Piro/Manso/Tiwa Indian Tribe, read a letter from the Piro/Manso/Tiwa Indian Tribe to the NPS and the NAGPRA Review Committee on September 25, 1995, requesting that the Indian tribe be placed on the official NPS list of interested parties regarding NAGPRA and be listed as a culturally affiliated Indian tribe of the Salinas National Monument. The Indian tribe is the culturally affiliated aboriginal Indian tribe of the Masilla Valley with documented lineal descent to the Piro Pueblos. The Indian tribe's oral history indicates cultural affiliation with White Sands National Monument, Gila Cliff Dwellings and Petroglyphs National Park. According to House and Senate reports on the final NAGPRA bill, unrecognized tribes are to be afforded the same right as recognized Indian tribes once cultural affiliation has been established.

#### Ho-Chunk Nation

Mr. Dennis Funmaker, Ho-Chunk Nation, explained that the Ho-Chunk Nation wanted to present a concern to the Review Committee regarding their attempt to repatriate the Thunder Clan war bundle in the possession of the Field Museum of Chicago, Illinois. He stated since the Field Museum did not have adequate time to respond, the Ho-Chunk would like to request a formal hearing with the Review Committee at a later date. The Field Museum submitted a proposal for repatriation, which the Ho-Chunk Nation rejected mainly due to the requirement that the bundle will be returned to the Field Museum if it is ever alienated from the Ho-Chunk Nation. The Ho-Chunk Nation disagrees with the Field Museum's contention of right of possession. Ho-Chunk Nation traditional people explicitly state that all sacred objects, unassociated funerary objects and objects of cultural patrimony are inalienable. The Ho-Chunk appreciate the offer of the Field Museum, but feel they cannot partly own the bundle. If the war bundle cannot be repatriated without the compromise, there will probably be no repatriation.

Mr. Orville Greendeer, Ho-Chunk Nation, explained that the Ho-Chunk Nation historically split into two groups and one group relocated to Nebraska, taking the war bundle. He explained that leaders of clans group have the knowledge to say what direction will be taken with a war bundle, but even the leaders do not own them. All history and guidance relating to war bundles is held within oral history, and only one Thunder Clan elder remains who knows the story of this war bundle. Mr. Greendeer stated that return of the war bundle with no clause on its release is vital to the Ho-Chunk Nation.

Mr. George Garvin, Ho-Chunk Nation, explained that even though the war bundle was with the Nebraska Ho-Chunk, the Wisconsin Ho-Chunk continued talking about the bundle in rituals. He stated that the two Ho-Chunk groups were one Indian tribe living in two places and were separated due to government relocation programs. Mr. Garvin stated that there should be no compromise when sacred items are returned.

Review Committee Discussion: The Review Committee members discussed the issue and felt that repatriations should occur without conditions. Realizing that the Field Museum was not represented and did not have a chance to respond at the meeting, the Review Committee members asked the NPS to send a letter to the Field Museum outlining their opinion regarding this issue and asking for further consideration by the Field Museum. If the issue escalates to the dispute level, the parties can come before the Review Committee for a more thorough discussion and presentation and the Review Committee members can issue a finding.

#### Confederated Salish and Kootenai Tribes

Mr. Pat Lefthand, Kootenai Tribe, stated that he does repatriation activities for the Kootenai Tribe with Ms. White, for which they have a low-key ceremony. He explained how excavated human remains have been treated with a lack of respect, with their removal from the ground and the dirt surrounding the burials being discarded. The Kootenai have very confidential ceremonies and information. Rather than disclose the information, the Indian tribe would probably choose not to repatriate funerary objects. He concluded by saying his prayers were with the Review Committee members in a hope that their actions would favor Native Americans.

Ms. Germaine White, Confederated Salish and Kootenai Tribes, explained that the elders have guided the return of ancestors' remains, with a preference that human remains be returned to where they were taken from. Therefore, the Indian tribe opposes BLM's instructional memo 96-97 that prohibits the Indian tribe from that practice. Ms. White asked the Review Committee to bring the Indian tribe's objection to the attention of the BLM and the DOI.

#### Closing Comments

Ms. Naranjo thanked the NAGPRA staff for their hard work. On behalf of the Secretary and the DOI, Mr. McManamon thanked the Review Committee members for their time and attention to the implementation of NAGPRA, the members of the NPS staff for their work at the meeting, the people providing the invocations and presentations for the meeting, and the audience for their attention and comments.

Mr. Armand Minthorn gave the closing invocation. The meeting was adjourned at 12:30 p.m. on Saturday, December 12th, 1998.

Approved:

/S/ Tessie Naranjo  
May 5, 1999

Tessie Naranjo, Chair     Date  
Native American Graves Protection  
and Repatriation Committee